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Right to health and indigenous peoples with a focus on children and youth

Study by the Expert Mechanism on the Rights of Indigenous Peoples

Summary

In its resolution 30/4, the Human Rights Council requested the Expert Mechanism on the Rights of Indigenous Peoples to prepare a study on the right to health and indigenous peoples with a focus on children and youth and to present it to the Council at its thirty-third session.

The present study consists of a critical analysis of the content of the right to health vis-à-vis indigenous peoples and a review of the legal obligations of States and others in terms of fulfilling that right.

Expert Mechanism advice No. 9 on the right to health and indigenous peoples is contained in the annex.

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Contents

		Page
I.	Introduction	3
II.	Right to health and indigenous peoples: legal and policy framework	4
	A. Normative framework on the right to health	4
	B. Other key instruments, policy processes and documents	5
III.	Treaty rights, self-determination and health	6
IV.	Indigenous peoples' right to health: State obligations	7
	A. Availability, accessibility, acceptability and quality framework	7
	B. Respect, protect and fulfil framework	9
V.	Indigenous children and youth and the right to health	13
VI.	Health rights of key indigenous groups	16
	A. Women's health	16
	B. Health of indigenous persons with disabilities	17
VII.	Current challenges relating to indigenous peoples and the right to health	18
	A. Communicable and non-communicable diseases	18
	B. Environmental health, climate change and displacement	19
Annex		
	Expert Mechanism advice No. 9 on the right to health and indigenous peoples	21

I. Introduction

1. In its resolution 30/4, the Human Rights Council requested the Expert Mechanism on the Rights of Indigenous Peoples to conduct a study on the right to health and indigenous peoples with a focus on children and youth and present it to the Council at its thirty-third session.

2. The Expert Mechanism called for States, indigenous peoples, national human rights institutions and other stakeholders to provide information for the study. The submissions received have been made available on the Expert Mechanism website whenever permission to do so has been granted. The study also benefited from presentations made at the Expert Seminar on Indigenous Peoples and the Right to Health (Montreal, Canada, 21-22 February 2016) organized by the Office of the United Nations High Commissioner for Human Rights and the Institute for the Study of International Development at McGill University. The Expert Mechanism would like to thank the University of Auckland Faculty of Law for providing research support. The Pan American Health Organization reviewed the study, provided comments and contributed to the text.

3. Although this is the first study of the Expert Mechanism focusing on the right to health, previous studies have addressed the links between access to justice and the health of indigenous women and indigenous persons with disabilities (A/HRC/27/65), the health implications for indigenous peoples of disaster risk reduction initiatives (A/HRC/27/66) and the importance of indigenous cultures and languages for the health of indigenous peoples (A/HRC/21/53).

4. Indigenous peoples' conceptualization of health and well-being is generally broader and more holistic than that of mainstream society, with health frequently viewed as both an individual and a collective right, strongly determined by community, land and the natural environment. The Permanent Forum on Indigenous Issues has noted that the right to health "materializes through the well-being of an individual as well as the social, emotional, spiritual and cultural well-being of the whole community" (see E/2013/43-E/C.19/2013/25, para. 4). Indigenous concepts of health often incorporate spiritual, emotional, cultural and social dimensions in addition to physical ones. Those concepts are inextricably linked with the realization of other rights, including the rights to self-determination, development, culture, land, language and the natural environment.

5. Indigenous peoples' concept of health is frequently disregarded within non-indigenous health systems, however, creating significant barriers to access (see A/HRC/30/41, para. 31). In particular, a lack of understanding of social and cultural factors deriving from the health-related knowledge, attitudes and practices of indigenous peoples can have deleterious effects on indigenous well-being. Indigenous peoples worldwide experience higher rates of health risks, poorer health and greater unmet needs in respect of health care than their non-indigenous counterparts. Forced assimilation, political and economic marginalization, discrimination and prejudice, poverty and other legacies of colonialism have also led to a lack of control over individual and collective health.

6. A comprehensive analysis of the state of indigenous peoples' health is beyond the scope of the present study, which contains, instead, a critical analysis of the content of the right to health vis-à-vis indigenous peoples and a review of the legal obligations of States and others in terms of fulfilling that right.

II. Right to health and indigenous peoples: legal and policy framework

A. Normative framework on the right to health

7. The right to health of all peoples has long been recognized, for example in the Universal Declaration of Human Rights, in particular its article 25, according to which everyone has the right to a standard of living adequate for the health and well-being of himself or herself and of his or her family, including food, clothing, housing and medical care and necessary social services.

8. The United Nations Declaration on the Rights of Indigenous Peoples recognizes the health rights of indigenous peoples and expands upon their varied dimensions and the interplay with rights such as the right to self-determination. Article 21 recognizes the right of indigenous peoples to the improvement of their economic and social conditions without discrimination. Article 23 recognizes their right to determine and to develop priorities and strategies for exercising the right to development and, in particular, to be actively involved in developing and determining health programmes affecting them and to administer such programmes through their own institutions where possible. Article 24 recognizes the right of indigenous peoples to their traditional medicines, to maintain their health practices and to access social and health services without discrimination; it affirms the equal right of indigenous individuals to the enjoyment of the highest attainable standard of physical and mental health. In addition, the Declaration recognizes the importance of upholding the collective rights of indigenous peoples. Finally, article 29 (2) requires States to take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.

9. Article 24 of the Declaration reflects the wording of article 12 of the International Covenant on Economic, Social and Cultural Rights, a binding treaty enshrining the right of all people to the highest attainable standard of mental and physical health. Article 12 sets out an inclusive right, incorporating both health care and the social determinants of health, and containing freedoms and entitlements: notably, the freedom to control one's own health and the entitlement to a system of health protection that provides equality of opportunity in realizing the highest attainable standard of health. Non-discrimination and equal treatment are among its key components; and, although many elements are subject to "progressive realization" in view of resource constraints, obligations such as non-discrimination are of immediate effect. While States have primary responsibility for realizing the right to health, that responsibility is shared by all in society and individuals should have the opportunity to participate in decision-making processes affecting the realization of their rights. States should respect, protect and fulfil the right to health and ensure that health-care facilities, goods and services are available, accessible, acceptable and of good quality (see E/CN.4/2003/58, para. 34).

10. In its general comment No. 14 (2000) on the right to the highest attainable standard of health, the Committee on Economic, Social and Cultural Rights further expands upon the right to health vis-à-vis indigenous peoples, noting that they have the right to specific measures to improve access to health services and care, which should be culturally appropriate and take into account traditional practices and medicines, and that States should provide resources for indigenous peoples to design, deliver and control services. The Committee recognizes the collective dimension of health for indigenous peoples and acknowledges the deleterious effect on health of the displacement from traditional territories and environments that occurs as a consequence of development-related activities.

11. Article 25 of the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169), requires States to ensure that adequate health services are made available to indigenous peoples and to provide resources to indigenous peoples to allow them to design and deliver such services under their own control. It also requires preference to be given to the training and employment of local community health workers. The provision recognizes the importance of primary care and community-based health services and of coordination with other social, economic and cultural measures. Implementation of article 25 is supported by non-discrimination provisions (art. 3) and provisions requiring States to consult with and ensure the effective participation of indigenous peoples with the objective of achieving consent in relation to proposed measures (art. 6).

12. Health-related rights are also recognized in other binding international instruments, including the Convention on the Rights of the Child (art. 24), the Convention on the Elimination of All Forms of Discrimination against Women (arts. 10-14), the Convention on the Rights of Persons with Disabilities (art. 25) and the International Convention on the Elimination of All Forms of Racial Discrimination (art. 5). Certain regional instruments also uphold the right to health, including the African Charter on Human and Peoples' Rights (art. 16), the African Charter on the Rights and Welfare of the Child (art. 14), the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (art. 14) and the American Declaration on the Rights of Indigenous Peoples (art. XVII). The Pan American Health Organization too has passed a number of resolutions concerning the right to health of indigenous peoples.[1]

13. Treaty bodies and special procedures, including the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on the rights of indigenous peoples, have examined the right to health from an indigenous perspective. Key findings of these mechanisms are referred to throughout the present report.

B. Other key instruments, policy processes and documents

14. In 2014, the States participating in the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples committed themselves to ensuring that indigenous individuals have equal access to the highest attainable standard of physical and mental health and to intensifying efforts to reduce rates of HIV and AIDS, malaria, tuberculosis and non-communicable diseases and to ensure access to sexual and reproductive health. The importance of indigenous peoples' health practices and their traditional medicine and knowledge was also recognized.[2]

15. The Sustainable Development Goals, adopted in 2015, also touch on issues concerning indigenous well-being.[3] Goal 3 (to ensure healthy lives and promote well-being for all at all ages) directs States to work towards achieving universal health coverage, which will require States to extend services to indigenous peoples. The Goals on poverty, food security, equitable and quality education, and gender equality are also relevant to indigenous peoples' well-being. Goals 13 (on climate change), 14 (on the protection of ecosystems) and 15 (on sustainable development) are central to the realization of indigenous peoples' health rights, as they are closely interrelated with the rights to self-determination and to the use of traditional lands, territories and resources. Goal 16

[1] For example, see resolution CD47.R18.
[2] General Assembly resolution 69/2.
[3] General Assembly resolution 70/1.

(on access to justice and accountable and inclusive institutions) has clear implications for indigenous peoples' right to health, particularly in terms of redress. Finally, Goal 17 (which includes a target on the availability of disaggregated data) calls for enhanced capacity-building to increase data availability, which will assist States in identifying and remedying health inequities.

16. The negotiations held at the twenty-first session of the Conference of the Parties to the United Nations Framework Convention on Climate Change are also relevant, given the disproportionate impact that climate change has on indigenous peoples. Those negotiations culminated in the adoption of the Paris Agreement, in the preamble to which the parties to the Convention recognized the rights of indigenous peoples, referring specifically to the right to health. The parties also acknowledged that adaptation action should follow a country-driven, participatory and fully transparent approach, based on and guided by the knowledge of indigenous peoples, where appropriate (see decision 1/CP.21, annex). While the importance of the effective participation of indigenous peoples had already been noted (see decision 1/CP.16), the Paris Agreement went further by explicitly referring to human rights, signalling that States recognized the links between climate-related obligations, the right to health and indigenous peoples' rights.

17. Finally, the Guiding Principles on Business and Human Rights are also highly relevant to indigenous peoples, who disproportionately experience health rights infringements through development-related activities carried out by non-State actors. Although they are not parties to international human rights conventions, non-State actors nevertheless have a responsibility to respect human rights, and adherence to the Guiding Principles is necessary for indigenous peoples' health rights to be fully realized.

III. Treaty rights, self-determination and health

18. The right to health is an indispensable element of indigenous peoples' very existence and a central component of their right to self-determination. The right to self-determination is contained both in article 3 of the United Nations Declaration on the Rights of Indigenous Peoples and article 1 of the International Covenant on Economic, Social and Cultural Rights. All human rights are interdependent, including the rights to health and self-determination. Indeed, full realization of health-related rights cannot be achieved without self-determination, which is a non-derogable right the realization of which has associated benefits in respect of health and other social and cultural rights. These can include an improved diet, more frequent exercise and a renewed connection with traditional economic bases.[4]

19. Some treaties between indigenous peoples and States provide mechanisms for the realization of indigenous peoples' rights to health and self-determination. These legal agreements are thus highly relevant to a right-to-health analysis. Treaty No. 6, for example, to which the British Crown and indigenous peoples in Canada became parties starting in the 1870s, included a "medicine chest clause" and a "famine and pestilence clause" that have subsequently been interpreted as guarantees for the provision and delivery of health-care services, medicines and supplies to indigenous peoples by the Crown.[5] Treaties in other countries provide for self-determination, which implicitly includes control over decisions concerning the health and well-being of indigenous peoples, indirectly facilitating the realization of the right to health. In New Zealand, the right to health of the Maori people is effectively affirmed in the Treaty of Waitangi, which provides for the protection of self-

[4] Submission by the New Zealand Human Rights Commission.

[5] Submissions by the Maskwacis Cree and the Assembly of First Nations.

determination and cultural possessions (tangible and intangible), shared decision-making and equal participation in society without discrimination.

20. The Special Rapporteur on the right to health has stated that the right to health raises important issues of law, such as treaty rights to health.[6] Article 37 of the United Nations Declaration on the Rights of Indigenous Peoples confirms that indigenous peoples have the right to the recognition, observance and enforcement of treaties. In line with article 43, the survival, dignity and well-being of indigenous peoples are dependent on the rights recognized in the Declaration, including the right to health, the right to self-determination and treaty rights. Although the rights to self-determination and health are not contingent upon the recognition of treaties, their formal inclusion in treaties provides a mechanism for safeguarding those rights and strengthens the commitment of States to working with indigenous peoples as equal partners in improving their living conditions. Accordingly, States that have not yet adhered to such treaties should consider formally acknowledging those rights in agreements with indigenous peoples.

21. The principle of free, prior and informed consent is another integral element of the right to self-determination. It entitles indigenous peoples to effectively determine the outcome of decision-making affecting them. It is both a process and a substantive mechanism to ensure respect of indigenous peoples' rights. Free, prior and informed consent should be respected in decisions regarding health legislation, policy and programmes affecting indigenous peoples, which are frequently taken without any meaningful consultation. Health-care policymaking should adhere to both article 12 of the International Covenant on Economic, Social and Cultural Rights (on the right to participate in decision-making) and the United Nations Declaration on the Rights of Indigenous Peoples, and reflect the principles outlined by the Expert Mechanism in its study on the right to participate in decision-making (A/HRC/18/42).

IV. Indigenous peoples' right to health: State obligations

22. Indigenous peoples worldwide share many challenges in realizing the highest attainable standard of health. The challenges are examined in the present report using the availability, accessibility, acceptability and quality framework, with State obligations outlined using the respect, protect and fulfil framework. The availability, accessibility, acceptability and quality framework extends beyond the infrastructure for delivering health care to encompass the facilities, goods and services comprising the underlying determinants of health care, such as safe drinking water and adequate food and sanitation.[7]

A. Availability, accessibility, acceptability and quality framework

Availability

23. Public health and health-care facilities, goods and services should be available in sufficient quantity within a State, depending on its level of development. However, availability is often constrained for indigenous peoples and communities. For example, in certain areas in Africa where indigenous nomadic pastoralists and communities are located, health infrastructure is non-existent.[8] For facilities, goods and services to be available, they

[6] Statement to the Third Committee of the General Assembly, 29 October 2004.

[7] Committee on Economic, Social and Cultural Rights, general comment No. 14.

[8] United Nations, Department of Economic and Social Affairs, *State of the World's Indigenous Peoples: Indigenous Peoples' Access to Health Services*, second volume (New York, 2015).

must also be functional. Facilities located in areas inhabited by indigenous peoples are frequently not operational owing to a lack of staff, medicines, supplies and other consumables.

Accessibility

24. The four primary dimensions of accessibility are non-discrimination, physical accessibility, economic accessibility and information accessibility. For indigenous peoples, these four dimensions often intersect. Indigenous peoples are very likely to experience discrimination when accessing health-care facilities, goods and services. Doctors, nurses and other health-care professionals may refuse to treat indigenous peoples or indigenous peoples undergoing treatment may encounter discriminatory beliefs, practices and experiences, fuelling fear and distrust that further discourages use of health-care facilities. That situation is amplified for indigenous persons with disabilities. Racism may even lead to misdiagnosis and mistreatment for serious illnesses. Physical accessibility is an issue for indigenous peoples, many of whom live in geographically isolated areas, often because of displacement or the encroachment of non-indigenous peoples on their land.

25. Economic accessibility is another concern for indigenous peoples, who are frequently among the most socioeconomically marginalized groups in society. This is particularly true in countries without universal health care or with high out-of-pocket costs for consumers. Information accessibility is also constrained for indigenous peoples: this can be attributed to a number of factors, including health information being unavailable in indigenous languages; higher rates of illiteracy among indigenous peoples with limited educational opportunities; a lack of contact with health-care providers owing to unavailability; and discriminatory or paternalistic attitudes among health-care providers.

Acceptability

26. The Committee on Economic, Social and Cultural Rights has acknowledged that the right to take part in cultural life encompasses cultural appropriateness, which should be taken into account in providing health-care services.[9] Unfortunately, the health-care facilities, goods and services available to indigenous peoples are often unacceptable in nature. Interpersonal and structural racism frequently lead to system-wide policies and practices that marginalize or exclude individuals and minimize access to facilities, goods and services. One example of a basic failure to provide acceptable care is the non-provision of services in indigenous languages (see CEDAW/C/FIN/CO/7), which constitutes structural racism. Such failures can result in indigenous peoples internalizing stigma, creating additional barriers to health care. Moreover, indigenous people are frequently blamed for their illnesses and medical needs, either individually or as a group. Negative attitudes and a lack of cultural sensitivity among health-care providers in some jurisdictions also have an impact on indigenous peoples' ability to seek health care.

Quality

27. Health-care facilities, goods and services should be scientifically, medically and culturally appropriate, and of good quality. That requires skilled medical personnel, scientifically approved and unexpired drugs and hospital equipment, safe drinking water and adequate sanitation. Tension often exists between mainstream health-care services, which are generally evidence-based and perceived to be of high quality, and the traditional health-care practices of indigenous peoples, on which there is a paucity of evidence, often

[9] See the Committee's general comment No. 21 (2009) on the right of everyone to take part in cultural life.

owing to a lack of research. That should not be viewed exclusively as a source of tension between indigenous peoples and mainstream health-care providers. Indigenous communities themselves often face challenges internally in seeking to balance traditional and modern approaches to health and in addressing other social issues.[10]

B. Respect, protect and fulfil framework

Respect

28. Articles 2 (2) and 3 of the International Covenant on Economic, Social and Cultural Rights and article 24 of the United Nations Declaration on the Rights of Indigenous Peoples prohibit discrimination in access to health care and the underlying determinants of health. States must refrain from denying or limiting indigenous peoples' access to public health-care facilities, goods and services. That immediate obligation is not subject to the principle of progressive realization. States should also refrain from prohibiting or impeding indigenous peoples' use of traditional preventive care, healing practices and medicines.

29. Laws, policies and programmes concerning health should be reviewed (together with indigenous peoples) and discriminatory elements removed or replaced. That obligation extends to laws that are not de jure discriminatory but that have a disproportionate impact on indigenous peoples. The obligation to respect extends to abstaining from enforcing broader discriminatory laws or practices that can have detrimental health effects. For example, laws and policies sanctioning practices such as the forced sterilization of indigenous women and female genital mutilation should be removed.

30. The obligation to respect extends to the underlying determinants of health. States should refrain from unlawfully polluting the air, the water and the soil, for example through industrial waste from State-owned facilities or extractive industries. Such activities are too frequently carried out on land inhabited by indigenous peoples and, along with the agricultural use of pesticides, can represent a violation of indigenous peoples' health-related rights.[11]

31. Indigenous peoples must also be permitted to self-identify within States, which would facilitate the collection of data disaggregated by health and other criteria, for the provision of funding and assistance in realizing health-related rights. While certain jurisdictions have banned the collection of data disaggregated by ethnicity for compelling reasons, such laws should not be applied to prevent indigenous peoples from improving their well-being.[12]

Protect

32. States often turn a blind eye to racism in health-care settings, even in the presence of pervasive, persistent evidence that indigenous peoples are treated discriminatorily. States should take measures to ensure equal access to treatment and health-care facilities within their jurisdiction, as well as to protect indigenous peoples from discrimination perpetrated by third-party health-care providers. States should consider implementing workforce awareness-raising activities and campaigns challenging racist behaviour and stereotyping and promoting more culturally sensitive approaches.

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[10] Submission by the Inuit Circumpolar Council.

[11] See, e.g., *Social and Economic Rights Action Centre and Center for Economic and Social Rights v. Nigeria* (2001).

[12] Ian Anderson and others, "Indigenous and tribal peoples' health (The Lancet–Lowitja Institute Global Collaboration): a population study", *The Lancet*, vol. 388, No. 10040 (20 April 2016).

33. States should protect indigenous communities from actions by private companies and other third parties that deny indigenous peoples their sources of nutrition, medicinal plants and livelihoods through increased pressure on land, environmental degradation or displacement. Doing so necessarily includes respecting the principle of free, prior and informed consent. States should prevent the appropriation and commodification of indigenous knowledge, traditional medicines and practices by third parties. Article 31 of the United Nations Declaration on the Rights of Indigenous Peoples confirms that indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, medicines, knowledge of the properties of fauna and flora, and sports and traditional games. They also have the right to develop their intellectual property over such cultural heritage, traditional knowledge and traditional cultural expressions.

34. Although indigenous peoples have the right to engage in traditional health-care practices, States should take steps to work with indigenous communities towards the eradication of harmful practices such as female genital mutilation.[13] More research needs to be carried out into traditional medicines, procedures and other interventions. However, such research, and any potential commercialization, must take place in partnership with indigenous peoples.

35. States should consider the wishes of indigenous communities living in voluntary isolation or initial contact in recognition of their greater vulnerability and need of protection. States should develop preventive programmes to protect the health of those groups, in particular by protecting their lands and territories from environmental damage and by avoiding the transmission of diseases to which those groups lack immunity. States must also create plans to provide access to mainstream and traditional medicine where it is sought and develop an emergency plan to be implemented in the event of a threat of imminent widespread mortality.[14]

36. Finally, States should ensure that adequate mechanisms exist for the provision of redress and remedy in cases of infringements of the right to health, through mainstream or indigenous juridical systems (A/HRC/27/65), which may have certain advantages in respect of the resolution of complaints. In the Philippines, for example, complaints of violence against women heard through the traditional justice system have reportedly been resolved quickly, with high rates of acceptance by the parties.[15]

Fulfil

37. States should formulate and adopt national strategies to ensure that all individuals have access, without discrimination, to the health facilities, goods and services necessary to achieve the highest attainable standard of health. The creation of a national strategy should be accompanied by implementation plans and right-to-health indicators for effective monitoring, evaluation and accountability. States that are developing national action plans for the implementation of the United Nations Declaration on the Rights of Indigenous Peoples, as called for by the World Conference on Indigenous Peoples, should ensure that

[13] Committee on the Rights of the Child, general comment No. 11.

[14] OHCHR and the Spanish Agency for International Development Cooperation, "Directrices de proteccion para los pueblos indigenas en aislamiento y en contacto inicial de la región amazónica, el Gran Chaco y la Región Oriental de Paraguay" (Geneva, May 2012). Available from http://www.amazonia-andina.org/sites/default/files/directrices-de-proteccion-para-los-pueblos-indigenas-en-aislamiento-y-en-contacto-inicial_0.pdf.

[15] Submission by the Asia Indigenous Women's Network.

such plans include measures to fulfil indigenous peoples' right to health. As indigenous peoples have the right to specific measures to improve their access to health services and care, the immediate obligation to create a national health plan requires States to make provision for indigenous peoples' needs in a "mainstream" plan, as in Guatemala,[16] or a separate indigenous health plan, like the Maori Health Strategy, *He Korowai Oranga*, in New Zealand.[17] In addition, States should ratify and incorporate into national law relevant international instruments containing health rights, such as the Declaration, the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169), and the International Covenant on Economic, Social and Cultural Rights.

Facilitate

38. In accordance with the right to self-determination, States should provide sufficient resources to indigenous communities to create and operate their own health-care initiatives. Care provided by indigenous community-controlled organizations is often of a higher quality than that provided by mainstream services, significantly improving the availability and accessibility of health care. Indigenous organizations can create a virtuous cycle in respect of health and employment, serving as prominent employers of indigenous peoples and helping to combat poverty within indigenous communities. In Australia, the Aboriginal community-controlled health-care sector employs nearly 4,000 people and services over 60 per cent of Aboriginal people outside major metropolitan centres, with superior performance to mainstream services noted on key indicators.[18] In Colombia, 80 per cent of the professional staff of Pueblo Bello indigenous hospital in Valledupar are of indigenous origin — a significant achievement in intercultural practice.[19]

39. States should also facilitate access to health-care services through improved birth registration processes, where appropriate. Article 7 of the Convention on the Rights of the Child gives every child the right to be registered immediately after birth. Yet, many registration systems remain inadequate in relation to indigenous births. A lack of registration and identification documents directly impedes access to health-care facilities, goods and services where identification is a prerequisite for obtaining care (CRC/C/CRI/CO/4) and prevents the collection of disaggregated data, which is vital in monitoring disparities in health-care status between different ethnic groups. Registration can be facilitated through targeted registration campaigns, as in Brazil,[20] or use of indigenous registrars or a specific minorities registration section within State institutions, as in Panama, Peru and Thailand; alternatively, traditional birth attendants can improve birth registration rates, as has occurred in Ghana and Malaysia.[21] Birth registration should not, however, be a precondition for accessing health-care services.

[16] Submission by Guatemala.

[17] See www.health.govt.nz/our-work/populations/maori-health/he-korowai-oranga.

[18] Kathryn Panaretto and others, "Aboriginal community controlled health services: leading the way in primary care", *Medical Journal of Australia*, vol. 200, No. 11 (16 June 2014).

[19] Anna R. Coates and others, "Indigenous child health in Brazil: the evaluation of impacts as a human rights issue", *Health and Human Rights Journal*, vol. 18, No. 1 (16 May 2016).

[20] Ibid.

[21] United Nations Children's Fund, "Birth registration: right from the start", Innocenti Digest series No. 9 (March 2002).

Provide

40. Although certain indigenous peoples have stated that communities should take ownership over responses to emerging crises and rely less on external support,[22] this does not absolve States of their obligations to provide financial and other support. States incur a special obligation to provide (for those who do not have means) the necessary health insurance and health-care facilities, a specific right under the International Covenant on Economic, Social and Cultural Rights.[23] Even in times of severe resource constraints, individuals and groups in situations of vulnerability should be protected by the adoption of relatively low-cost, targeted programmes (E/1991/23-E/C.12/1990/8). States can adopt measures, temporarily or permanently, to remedy structural discrimination: these can include programmes or the provision of funding or other resources to achieve the highest attainable standard of health.

41. States should also provide certain resources while indigenous peoples establish their own services and workforce cadre. For example, in the absence of sufficient medical professionals able to speak indigenous languages, States should provide interpretation services facilitating effective communication in health-care settings, as is done in Norway, where a 24-hour-a-day Sami interpretation service has been established in collaboration with indigenous peoples.[24] Affordable versions of such programmes could be implemented by other States, given the rapidly increasing prevalence of mobile telephone coverage worldwide. Training and incorporating traditional indigenous practitioners into health-care systems could also address immediate shortages of medical staff in remote indigenous territories.

Promote

42. States should ensure that health-care research agendas sufficiently recognize and involve indigenous peoples. Failure to collect health data disaggregated by ethnicity, self-identified indigenous status or cultural identity can conceal deep inequities. Disaggregated data should be collected, in a consensual manner, to identify barriers to the enjoyment of the right to health and for inclusive policymaking. Such data should address issues such as gender, socioeconomic status and disability, as data focused purely on indigenous status does not fully capture the composite rights of indigenous peoples who are marginalized owing to other aspects of their identity.[25]

43. For health-care facilities, goods and services to be acceptable to indigenous peoples, they must be culturally appropriate. This requires communicating in a respectful and inclusive way, empowering patients in decision-making and building relationships so that patients and providers work together to ensure maximum effectiveness of care.[26] To achieve this, three steps are necessary: changes should be made to mainstream health-care facilities, goods and services; more indigenous individuals should be trained as health-care providers; and indigenous-specific services should be created.

44. To improve mainstream services, States should ensure that curricula of medical and health-care training programmes render graduating professionals culturally competent. Programmes should include education on colonial history and its legacies (where relevant), indigenous culture (including traditional approaches to medicine), stereotyping and racism,

[22] Submission by the Inuit Circumpolar Council.

[23] Committee on Economic, Social and Cultural Rights, general comment No. 14.

[24] Submission by Norway.

[25] Doreen Demas, presentation to the Expert Seminar on Indigenous Peoples and the Right to Health.

[26] National Aboriginal Health Organization, *Cultural Competency and Safety: A Guide for Health Care Administrators, Providers and Educators* (Ottawa, 2008).

and health-care disparities and social inequities. Information on effective communication with indigenous peoples should also be included. Specific programmes can also be created addressing indigenous health, such as the University of Northern British Columbia Aboriginal child and youth mental health certificate (for students who want to practice in remote indigenous communities) and the Native American Child Health initiative created by the American Academy of Pediatrics (dedicated to indigenous health care).

45. States should facilitate the entry of indigenous professionals in health care, as indigenous peoples are currently underrepresented. Facilitation of workforce entry can take many forms: for instance, through training quotas, earmarked funding or scholarships, and/or travel allowances. Indigenous peoples can receive professional training to bridge the divide between mainstream facilities, goods and services, and indigenous communities. Such training should be conducted sensitively and without prejudice to indigenous medicinal and health-related knowledge and practice.

46. States should also promote health through the provision of culturally appropriate information concerning healthy lifestyles and nutrition, disease and illnesses (including mental illness), harmful traditional practices, and the availability of services. Information should be provided in the patient's language and information mechanisms that incorporate non-verbal communication patterns, as well as cultural beliefs and practices, should be developed. In some indigenous communities, certain issues, such as HIV/AIDS and sexual and reproductive health, remain taboo: State cooperation with indigenous organizations is vital in implementing culturally appropriate awareness-raising campaigns among these communities.

47. The spiritual and biomedical benefits of traditional health-care practices and traditional medicines can promote and enhance indigenous health and bring unwell people into contact with health-care systems, facilitating access to care. Rather than stigmatizing and suppressing such practices and medicines, States should consider incorporating them into their health planning and promotion activities.

48. Indigenous peoples should be supported in making informed choices about their health by providing them with information and by taking State measures designed to facilitate healthy choices, including physical activity. States should promote healthy and traditional diets among indigenous people through the protection of indigenous peoples' traditional agricultural practices, education campaigns and, where necessary, direct provision of or economic subsidies for healthy foods, particularly in rural or remote areas where processed or packaged foods are frequently more easily available and affordable to indigenous peoples.

V. Indigenous children and youth and the right to health

49. Alongside the International Covenant on Economic, Social and Cultural Rights and the United Nations Declaration on the Rights of Indigenous Peoples, article 24 of the Convention on the Rights of the Child requires States to take appropriate measures to ensure the realization of the highest attainable standard of health for children. In its general comment No. 11 (2009) on indigenous children and their rights under the Convention, the Committee on the Rights of the Child noted that indigenous children frequently suffer poorer health than non-indigenous children owing to inferior or inaccessible health services, and that positive measures may be required to eliminate conditions causing discrimination and ensure the equal enjoyment of Convention rights. The Committee urged States to consider implementing special measures to ensure that indigenous children are not discriminated against and can maintain their cultural identity, and noted that States parties have a positive duty to ensure that indigenous children have equal access to health services

and to combat malnutrition as well as infant, child and maternal mortality. In its general comment No. 15 (2013) on the right of the child to the highest attainable standard of health, the Committee interpreted the right to health of all children as including the right to grow and develop to their full potential and live in conditions that enable them to attain the highest standard of health through the implementation of programmes that address the underlying determinants of health.

50. Unfortunately, alarming gaps in child health indicators persist between indigenous and non-indigenous populations globally. Infant mortality rates remain significantly higher among indigenous groups than among their mainstream counterparts.[27] Indigenous women and children can be vulnerable to violence, malnutrition, malnourishment, anaemia and malaria.[28] Some of these discrepancies are attributable to inequalities in social determinants of health. Disproportionately large numbers of indigenous children live in poverty (general comment No. 11) and in remote areas with limited access to health care, quality education, justice and participation opportunities (see E/C.19/2005/2, annex III).

51. Indigenous peoples continue to experience intergenerational trauma owing to the removal of children from families and residential schooling. The health impacts of such practices are profound and include mental illness, physical and sexual abuse, self-harm and suicide, and drug or alcohol addiction. A correlation has been demonstrated between the intergenerational effects of those events and suicide[29] and sexual abuse during childhood.[30]

52. Indigenous children and youth are particularly vulnerable to human rights violations, because of their age and the intersectional nature of the discrimination experienced by indigenous peoples. Children and youth have not historically been recognized as holders of rights; that is especially the case for indigenous children, who are frequently deprived of fundamental rights concerning their families, communities and identity. The combined effect of intergenerational trauma and lack of progress towards the realization of indigenous human rights has resulted in many indigenous children experiencing a multitude of early and traumatic life experiences, placing them at risk of ill health, mental illness, suicide and contact with the criminal justice system.[31]

53. Indigenous youth frequently find themselves caught between their indigenous languages, customs and values and those of the wider community. They often migrate from their traditional communities to urban areas to seek out increased employment and educational opportunities, incurring increased health risks. Indigenous youth not only experience higher rates of unemployment than their non-indigenous counterparts; they are also vulnerable to depression, substance abuse and other risky health outcomes that occur in the absence of strong social support and in the presence of discrimination.

54. In addition to difficulties experienced by indigenous peoples in accessing appropriate and good-quality health services, indigenous children and youth face three key issues compounding their social and economic disadvantage, relating to education, family and community integrity, and mental health.

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[27] Ian Anderson and others (see footnote 12).

[28] Submission by the Indigenous Women's Network, India.

[29] Zahra Rehman, presentation to the Expert Seminar on Indigenous Peoples and the Right to Health.

[30] Gregory Corosky, presentation to the Expert Seminar on Indigenous Peoples and the Right to Health.

[31] Hannah McGlade, *Our Greatest Challenge: Aboriginal Children and Human Rights* (Canberra, Aboriginal Studies Press, 2013).

Education

55. Education is a key underlying determinant of health for indigenous peoples. Illiteracy rates are frequently high (CERD/C/EDU/CO/20-22) and indigenous children are significantly less likely than non-indigenous children to attend school, which undermines health through decreased health literacy and loss of the numerous, indirect benefits of higher educational attainment. Lower educational attainment is "inextricably tied" to homelessness and the overrepresentation of indigenous peoples in the prison system.[32] Decreased participation in formal education is frequently the result of a combination of a lack of availability, accessibility, acceptability and quality. Even where services are accessed, boys and girls record different completion rates: for instance, 89 per cent of indigenous girls in Peru aged 12-16 drop out of school (see A/HRC/29/40/Add.2, para. 68).

56. States should do more to provide redress for these health rights violations. Investing in indigenous children's early development through education and providing support to families (e.g. around parenting) are highly effective means of reducing health inequalities. States should cooperate to ensure the adoption of effective interventions: for instance, nurse-family partnerships have been adapted for use in indigenous communities following evidence of effectiveness in the United States of America.[33] At the primary and secondary levels, educational facilities should be made available and accessible by States, including through radio broadcasts and long-distance education programmes or through the establishment of mobile schools for nomadic indigenous peoples (general comment No. 11).

Family and community integrity

57. The importance of healthy communities and families to indigenous children cannot be underestimated. Such support networks provide physical, mental and social health benefits, help to break entrenched cycles of intergenerational disadvantage and build resilience and capability. The Committee on the Rights of the Child has noted, in its general comment No. 11, that maintaining the best interests of the child and the integrity of indigenous families should be primary considerations in the development of health and other programmes. Unfortunately, indigenous children are still removed from their homes at a significantly higher rate than their non-indigenous counterparts, which can cause significant childhood trauma. Moreover, indigenous children are vulnerable to abuse while in the care of the State. States should prevent and provide redress for any action that deprives indigenous peoples, including children, of their ethnic identities, such as placement of indigenous children in alternative care.

Mental health

58. The high prevalence of mental illness and suicide among indigenous peoples is alarming, particularly among indigenous youth. There are various protective factors and preventive strategies for suicide, including strong cultural affiliations (A/HRC/21/53). One systematic review found that school-based suicide prevention strategies reduced depression and feelings of hopelessness and that "gatekeeper" training (teaching specific community groups how to identify and support individuals at high risk of suicide) increased the

[32] Submission by Brenda Gunn, University of Manitoba, Canada

[33] Submission by Australia

knowledge and ability to assist those at risk of suicide. Other strategies effective in non-indigenous communities, such as sui[illegible]cide-risk screening, could also be considered.[34]

59. Information on best practices for the prevention of mental illness and suicide should be shared between communities. Research in the circumpolar region has demonstrated the value of community-based and culturally guided interventions and evaluations, which could be utilized elsewhere.[35] Regional coordinating projects, such as the Rising Sun project facilitated by the Arctic Council, assist in sharing data and comparing interventions.[36] Finally, promising new initiatives such as the "health scouts" programme in the Philippines, where children lead resilience training, should be explored.[37]

VI. Health rights of key indigenous groups

A. Women's health

60. Indigenous women experience a broad, multifaceted and complex spectrum of mutually reinforcing human rights abuses (A/HRC/30/41); these frequently include health rights violations that extend beyond denial of access to medical services.

61. Firstly, indigenous women face many barriers to the realization of their sexual and reproductive health and rights. A lack of available, accessible and acceptable health-care services, as well as limited access to good-quality care, contributes to disproportionately high rates of maternal mortality, teenage pregnancy and sexually transmitted infections and to low rates of utilization of contraceptives, as indigenous women are often excluded from reproductive health services. High rates of teenage pregnancy can also be attributed to certain structural causes such as a lack of education for girls and forced marriage.

62. Secondly, indigenous women persistently experience high rates of maternal ill-health. Globally, maternal mortality rates are consistently higher among indigenous women than among non-indigenous women.[38] Indigenous women are frequently at risk of undernourishment, anaemia and other nutritional deficiencies, illnesses such as gestational diabetes and frequently have little or no access to basic antenatal, intra-partum and postnatal care.[39]

63. Finally, indigenous women and girls continue to experience violence at higher rates than the general population. In accordance with article 22 (2) of the United Nations Declaration on the Rights of Indigenous Peoples, States should take measures to ensure that indigenous women enjoy full protection against all forms of violence and discrimination. Nevertheless, indigenous women are disproportionately represented among victims of rape, assault and other forms of violence. Many forms of violence against indigenous women have a strong intergenerational element and stem from marginalization and legacies of

[34] Anton Clifford, Christopher Doran and Komla Tsey, "A systematic review of suicide prevention interventions targeting indigenous peoples in Australia, United States, Canada and New Zealand", *BMC Public Health*, vol. 13 (2013).

[35] Jennifer Redvers and others, "A scoping review of indigenous suicide prevention in circumpolar regions", *International Journal of Circumpolar Health*, vol. 74 (2015).

[36] Submission by the Inuit Circumpolar Council.

[37] Penelope Domogo, presentation to the Expert Seminar on Indigenous Peoples and the Right to Health.

[38] Ibid.

[39] Michael Gracey and Malcolm King, "Indigenous health part 1: determinants and disease patterns", *The Lancet*, vol. 374, No. 9683 (July 2009).

colonization that permit or enable abuse.[40] The health-related impacts of violence against women include injuries, sexually transmitted infections, gynaecological problems, mental illness and substance dependence. Violence against women also affects children exposed to such violence, who experience higher rates of morbidity and mortality.[41]

64. These challenges can be overcome in partnership with indigenous peoples. For example, community maternity wards, maternal houses and waiting homes have reduced perinatal risk in Guatemala and Peru.[42] Involvement and further training of traditional midwives in modern health-care delivery approaches may reduce maternal morbidity and mortality, while also improving service acceptability. States should consider opportunities for South-South cooperation concerning sexual and reproductive health, in particular in relation to intercultural standards (E/2013/43-E/C.19/2013/25).

65. In many indigenous communities, birth rates remain significantly higher compared with the national average, partly reflecting the value indigenous communities place on motherhood and childbearing. These views can occasionally clash with prevailing beliefs in mainstream medicine regarding, for instance, birth practices and contraception. The perceived conflict between the rights of indigenous peoples and the rights of women, however, is often illusory. The elimination of customary law or practices that violate women's rights, such as forced marriage and domestic violence, has long been sought by many indigenous peoples. Other practices that are traditional or preferred by indigenous peoples should not be prohibited by States; instead, dialogue on pregnancy spacing, contraceptive use and parenting should be conducted in a culturally sensitive manner.

66. States must do more to address gender-based violence. Indigenous women and girls frequently have no effective legal remedies for such acts. In certain jurisdictions, violence perpetrated against women by State officials such as police officers and military or paramilitary forces occurs. In such cases, women experience a two-fold rights violation: firstly, through the experience of violence and, secondly, through the lack of redress from the very mechanism that has perpetrated the violence. States must take steps to prevent such violence and ensure that acceptable mechanisms to provide redress for such violations are available and accessible to all women.

B. Health of indigenous persons with disabilities

67. Indigenous persons experience higher rates of disability globally compared to the general population. Barriers such as multiple forms of discrimination, poverty, systemic and physical barriers and violence contribute to the lack of full enjoyment of their human rights. The Convention on the Rights of Persons with Disabilities recognizes the right to health (art. 25) and the difficult conditions faced by persons with disabilities who are subject to multiple or aggravated forms of discrimination, including indigenous persons with disabilities (preamble).

68. Indigenous children with disabilities face physical, systemic and attitudinal barriers that impede the realization of their rights to education, accessible services and disability-related rehabilitation programmes. Too often, indigenous children with disabilities face

[40] Ellen Gabriel, presentation to the Expert Seminar on Indigenous Peoples and the Right to Health.

[41] World Health Organization, "Violence against women: intimate partner and sexual violence against women", factsheet No. 239 (January 2016). Available from www.who.int/mediacentre/factsheets/fs239/en/.

[42] United Nations Population Fund and the Spanish Agency for International Development Cooperation, "Promoting equality, recognizing diversity: case stories in intercultural sexual and reproductive health among indigenous peoples" (Panama, August, 2010).

discrimination, abuse and bullying from their peers, caregivers and members of their communities. Indigenous status, intellectual disability and imprisonment frequently co-occur.[43]

69. Indigenous persons with disabilities may also experience delays in recognition of their condition owing to racism or discrimination, or even an over-diagnosis of their intellectual disability owing to cultural bias in testing.[44] Moreover, "institutionalized ableism" can obscure undiagnosed illnesses among people living with disabilities, where medical abnormalities are attributed to disability rather than to a separate pathology.[45] The potential for this to occur in indigenous people is significant given frequent issues with language and other communication barriers and given health professionals' lack of education. Training and education curricula should include content regarding the needs of indigenous persons with disabilities, so as to raise the awareness of practitioners.

70. Indigenous persons living with a disability in remote areas are often required to periodically reconfirm their disability through central medical organizations to remain eligible for disability pensions, creating hardship. States and other actors should recognize and address the multiple burdens of discrimination suffered by indigenous persons with disabilities.

VII. Current challenges relating to indigenous peoples and the right to health

A. Communicable and non-communicable diseases

71. Indigenous peoples experience disproportionately high levels of infectious diseases such as HIV/AIDS, malaria and tuberculosis, with the risk of becoming infected with HIV increasing among those migrating to urban areas. States should recognize the higher risk profile of indigenous peoples in relation to these diseases and the multiple burden of discrimination indigenous peoples suffer upon contracting such illnesses. In addition, indigenous peoples disproportionately suffer from "neglected" tropical diseases such as trachoma, helminth infections, yaws, leprosy and strongyloidiasis.[46] Widespread or mass consensual treatment for these conditions should be considered by States, where effective medications exist. It is also important that State funding for indigenous health activities is not predicated on wellness, particularly in communities already experiencing disadvantage. In the Russian Federation, an increasing incidence of tuberculosis in indigenous communities has been used as a criterion for the non-approval of or reduction in federal subsidies.[47]

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[43] Matthew Frize, Dianna Kenny and C.J. Lennings, "The relationship between intellectual disability, indigenous status and risk of reoffending in juvenile offenders on community orders", *Journal of Intellectual Disability Research*, vol. 52, No. 6 (June 2008).

[44] Ibid.

[45] Submission by the First Peoples Disability Network.

[46] Peter Hotez, "Aboriginal populations and their neglected tropical diseases", *PLoS Neglected Tropical Diseases*, vol. 8, No. 1 (January 2014).

[47] Russian Federation, federal government act No. 217 of 10 March 2009 on approval of the terms of distribution of subsidies from the federal budget to the budgets of subjects of the Russian Federation to support the economic and social development of the indigenous peoples of the North, Siberia and the Far East of the Russian Federation.

72. There has also been an enormous rise in the incidence of non-communicable diseases among indigenous peoples, who experience disproportionately high rates of cardiovascular illness and diabetes. Such high rates are linked to the migration of indigenous peoples from rural to urban areas, whose lifestyles rapidly change to incorporate modern diets high in calories, fat and salt.[48] For example, in the Philippines, development and changes in agricultural practices and dietary preferences have contributed to soaring rates of diabetes, renal disease, cardiovascular disease, hypertension and cancer.[49] Moreover, global data reveal high rates of alcohol and tobacco use among indigenous peoples, in particular men.

73. States should take specific steps to combat the extraordinary burden of these illnesses among indigenous peoples. Affordable access to key medications, such as insulin and anti-hypertensives, should be ensured, as their high out-of-pocket costs can lead to a rapid, yet preventable, deterioration in health. Telemedicine or mobile health initiatives to monitor indigenous peoples with chronic illness living in remote areas should also be considered. The value of exercise and sport should not be underestimated, both in terms of non-communicable disease prevention and indirect health benefits, such as increased social inclusion and self-esteem. Among indigenous Australian youth there is a positive relationship between self-reported participation in sport and health outcomes, including mental health; involvement in sport has even been shown to deter juvenile delinquency.[50] It is very encouraging that traditional games and sports events such as the World Indigenous Games held in 2015 are being supported and promoted by States, given their role in prevention of illness and wellness promotion.

74. Good occupational health for indigenous persons is also crucial. For example, some indigenous peoples suffer from silicosis as a consequence of poor occupational hygiene in stone processing factories, a traditional livelihood in some indigenous territories of the Russian Federation. States should protect the health of indigenous peoples working in both traditional and mainstream industries.[51]

B. Environmental health, climate change and displacement

75. Poor environmental health has long been a concern of indigenous peoples. The Committee on the Rights of the Child has highlighted the importance of environmental health to children and recognized climate change as a particularly urgent threat to indigenous children's health and lifestyles, noting that States should put children's health concerns at the centre of their climate change adaptation and mitigation strategies (general comment No. 15). Those who are already vulnerable, including indigenous peoples, experience the worst effects of climate change (A/HRC/31/52). For example, climate change is contributing significantly to food insecurity among the Inuit peoples of the Canadian Arctic, whose hunting and fishing practices have been threatened by significant reductions in their icy hunting grounds.[52] Replacement of traditional food sources with mainstream dietary elements is costly in such locations, and carries its own health risks.

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[48] Michael Gracey and Malcolm King (see footnote 39).

[49] Penelope Domogo, presentation to the Expert Seminar on Indigenous Peoples and the Right to Health.

[50] Submission by Cultural Survival.

[51] Outcome document of the expert seminar entitled "Finno-Ugric peoples and sustainable development: health of indigenous peoples", held in Petrozavodsk, Russian Federation, on 25 and 26 May 2016.

[52] Sheila Watt-Cloutier, presentation to the Expert Seminar on Indigenous Peoples and the Right to Health.

76. The development-related activities of States or third parties, such as multinational corporations, may also compromise indigenous peoples' underlying determinants of health, such as food, safe drinking water and sanitation. This can occur through the displacement of indigenous peoples from traditional lands or from land or water contamination, which in turn results in infringements of the right to health and other rights, including the right to life.[53] Contamination can also occur through the use of pesticides that are banned in certain States but that are nevertheless exported and used elsewhere.[54] It is an ironic outcome of development and globalization that indigenous peoples are consistently among those most vulnerable to food insecurity, malnutrition and chronic diseases, given their wealth of traditional knowledge regarding sustainable, healthy living in rural ecosystems. This vulnerability is a living reality for many indigenous peoples: diabetes and cardiovascular diseases have been causally linked to the impact of colonization and dispossession of lands, territories and resources.[55]

77. Efforts should be made to promote cooperation between indigenous peoples and businesses and to minimize the negative impact of development, as examples from the Russian Federation illustrate.[56] Identifying indigenous peoples' rights to land, forests and marine and other natural resources is also vital to indigenous peoples' livelihoods and well-being. The importance of maintaining a connection with the land is also recognized in regional legal instruments.[57] Where indigenous peoples are empowered to care for and maintain their land, another virtuous cycle is created: natural resources are used more sustainably, employment prospects are created and the overall health of communities improves. Indigenous peoples should retain decision-making control over these resources to ensure sufficient food and nutritional security, especially where communities are dependent on marine and terrestrial resources for survival (E/2005/43-E/C.19/2005/9).

[53] See e.g. *Xákmok Kásek Indigenous Community v. Paraguay*, Inter-American Court of Human Rights, 24 August 2010.

[54] Submission of the International Indian Treaty Council.

[55] Royal Commission on Aboriginal Peoples, *Report of the Royal Commission on Aboriginal Peoples: Volume 3 — Gathering Strength* (Ottawa, Canada Communication Group, 1996).

[56] United Nations Development Programme, Russian Union of Industrialists and Entrepreneurs and Global Compact Network Russia "United Nations Global Compact Network Russia: corporate social responsibility practices".

[57] See the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, art. 4 (5).

Annex

Expert Mechanism advice No. 9 on the right to health and indigenous peoples

A. General advice

1. The right to health of indigenous peoples is enshrined in multiple international and national instruments, and forms an important part of human rights law. That right is interrelated with various key rights accrued by indigenous peoples, including the rights to self-determination; development; culture; land, territories and resources; language; and the natural environment.

2. Indigenous concepts of health are broad and holistic, incorporating spiritual, environmental, cultural and social dimensions in addition to physical health. Forced cultural assimilation; land dispossessions and the use of indigenous land for the extractive industry; political and economic marginalization; poverty; and other legacies of colonialism have led to a lack of control over individual and collective health and undermined the realization of indigenous peoples' health rights.

3. Health statistics the world over illustrate indigenous peoples' disadvantaged position in terms of access to quality health care and their vulnerability to numerous health problems, including communicable and non-communicable diseases. Indigenous women, youth, children and persons with disabilities face particular challenges, including higher maternal mortality and suicide rates, and face multifaceted forms of discrimination.

B. Advice for States

4. States should recognize and enhance the protection of the right to health of indigenous peoples by ratifying and incorporating into their domestic law the Indigenous and Tribal Peoples Convention, 1989 (No. 169), of the International Labour Organization, the International Covenant on Economic, Social and Cultural Rights and other key human rights treaties, and by taking concrete measures to implement the United Nations Declaration on the Rights of Indigenous Peoples.

5. States should recognize the inherent right of indigenous peoples to determine their own futures, including in terms of exercising control over their own health. States should consider entering into treaties with indigenous peoples, explicitly safeguarding rights to self-determination and health, and implement relevant treaty commitments where they already exist.

6. Health is an indispensable component of indigenous peoples' very existence, survival and entitlement to live in dignity and determine their own futures. States should therefore seek the free, prior and informed consent of indigenous peoples before implementing laws, policies or programmes affecting their health or health rights.

7. States should implement national plans for indigenous peoples' health with the full participation of indigenous peoples and with their free, prior and informed consent, or create or amend existing national health plans to incorporate specific programmes and policies for indigenous peoples. States should also incorporate the right to health into national action plans for the implementation of the United Nations Declaration on the Rights of Indigenous Peoples.

8. States should ensure that indigenous peoples are given full access to publicly run health-care facilities, goods and services, as well as to facilities, goods and services relating to underlying determinants of health, such as safe and potable water and adequate food and sanitation. The introduction and implementation of comprehensive anti-discrimination laws and the collection and use of disaggregated data are vital for achieving this objective.

9. Laws and policies that permit or sanction violence against indigenous peoples, even if only implicitly, should be repealed by States, and steps should be taken to address violence perpetrated by State representatives (such as armed forces) and third parties. Violence in health-care settings, such as forced sterilization and female genital mutilation, as well as discrimination against lesbian, gay, bisexual and transgender indigenous persons, should be explicitly prohibited.

10. States should not endanger the environmental health of indigenous peoples, including through air pollution or water and soil contamination by State-owned facilities or other activities. States should take steps to protect indigenous peoples from environmental damage caused by third parties (such as private companies) by minimizing, through legislative and practical measures, the impact that extractive industries in particular have on the physical and mental health of indigenous peoples.

11. Indigenous peoples should be permitted to identify as distinct groups within States and States should take positive measures to ensure the collection of disaggregated data on indigenous peoples. States should facilitate access to health-care services through improved birth registration processes and by removing birth registration as a precondition for accessing health-care services.

12. States should take steps to support the preservation of indigenous cultures and protect indigenous peoples from the appropriation and commodification of their knowledge, their traditional medicines and other traditional practices by third parties. Indigenous peoples should be allowed to practice traditional medicine and enjoy its benefits but harmful practices that infringe on other rights, such as female genital mutilation, should be eradicated, in partnership with indigenous peoples.

13. States should provide sufficient resources to indigenous peoples to facilitate the creation and operation of their own health-care initiatives or, in the absence of indigenous-controlled services, provide programmes and interventions directly to indigenous peoples, including through the implementation of special measures necessary for indigenous peoples to fully realize their health rights.

14. States should secure access to quality health-care services, including preventive care, for nomadic and remote indigenous peoples, indigenous peoples in conflict-affected areas and indigenous persons in detention, including through mobile clinics, telemedicine and information and communications technologies.

15. States should ensure that interpretation services are available to indigenous patients, to ensure adequate communication in health-care settings. Recognizing the role of languages in the healing process, States should also promote the use of indigenous languages in health-care settings.

16. States should take steps to train indigenous health-care workers and accredit indigenous health practitioners and integrate them into health-care systems. States should also improve health-care training curricula to train health-care workers to deliver culturally appropriate services, and create programmes and services to raise the awareness of practitioners regarding the treatment and management of indigenous persons.

17. Culturally appropriate health promotion tools and information should be devised and disseminated by indigenous peoples in partnership with States, to prevent both communicable and non-communicable diseases. Sufficient resources should be allocated

for healthy lifestyle information programmes to be devised and States should design specific strategies for the prevention of communicable and non-communicable diseases in partnership with indigenous peoples and with their free, prior and informed consent.

18. States should implement legislation, policies and programmes that support indigenous peoples in making informed choices about their health and that include initiatives to improve indigenous peoples' choices regarding the underlying determinants of health, such as healthful food and physical activity.

19. Educational initiatives for indigenous peoples should be prioritized by States, given the strong direct and indirect links between health and educational attainment. States should ensure that every indigenous child has access to primary and secondary education and that all indigenous peoples can access health-related educational resources.

20. The high rate of removal of indigenous children from their families and communities worldwide and the far-reaching health effects of intergenerational trauma attributable to such removal and placement in residential schools and other facilities should be further investigated by States. Steps should be taken to preserve the integrity of indigenous families in accordance with the rights of the child and to ensure that affected indigenous persons receive the preventive and curative health-care services they require for addressing sequelae such as mental illness.

21. States, in cooperation with indigenous peoples, must take immediate steps to reduce the high rate of indigenous suicide worldwide, in particular among children and youth. Proven preventive measures should be implemented in high-risk communities and sufficient resources should be allotted to achieve genuine improvements in mental health among indigenous peoples.

22. States should provide resources and materials to deliver culturally appropriate health care to women, especially in respect of maternal health and sexual and reproductive health and rights.

23. States should ensure that women are protected from violence by enforcing criminal laws and making use of indigenous juridical mechanisms. States should also offer support services and resources for women who experience violence, including monetary resources where necessary.

24. States should take steps to combat discrimination against indigenous persons with disabilities by implementing legislation, policies and programmes and creating mechanisms to protect these people from having their rights abused by third parties. States should also implement culturally appropriate services (diagnostic and otherwise), taking into account indigenous needs in identifying and managing disability.

25. States should promote the exercise of indigenous traditional games and sport, for example through the World Indigenous Games.

26. States need to legally recognize and protect the right of indigenous peoples to their lands, territories and resources through appropriate laws and policies, given their intrinsic connection with the rights to health and to food.

27. States should make concrete plans to implement the provisions of the Paris Agreement, to mitigate the harmful effects of climate change and to tailor their health-sector planning to prepare for the health-related impacts of climate change, which disproportionately affect indigenous peoples.

28. States should ensure that adequate mechanisms are in place to provide redress and remedy for health rights infringements, including treaty rights, either through mainstream or indigenous juridical systems. Indigenous juridical systems may have certain advantages in terms of the resolution of complaints linked to health rights violations.

C. Advice for indigenous peoples

29. Indigenous peoples should strengthen advocacy efforts for the recognition of indigenous health rights and rights to self-determination, with the aim of creating equitably funded indigenous community-controlled health-care facilities, goods and services that are available, accessible, acceptable and of good quality.

30. Indigenous peoples should continue to advocate for proportionate representation and genuine participation in policy decisions regarding health care and push States to ensure that their free, prior and informed consent is obtained before implementing laws, policies and projects affecting indigenous peoples.

31. Indigenous peoples can take measures to protect and promote traditional medicine and associated practices, including advocating for State recognition to receive full protection under the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity, and for traditional healing and medical practices to be included in mainstream health-care services.

32. Indigenous peoples should ensure that steps are taken within communities to protect children and youth from practices with negative health impacts, including alcohol and drug misuse, and work with States to address these issues.

D. Advice for international organizations

33. While acknowledging the work done in this area by the Pan American Health Organization, the Expert Mechanism suggests that the World Health Organization consider appointing a global focal point on indigenous peoples' health issues to better address the pressing concerns that are raised worldwide in respect of the realization of indigenous health rights.

34. The United Nations, its agencies and other international organizations should emphasize the importance of providing mental health services to indigenous peoples and take steps to address suicide among indigenous people, in particular indigenous children and youth. The World Health Organization should also coordinate further research into youth suicide. The above-mentioned organizations should share information and support indigenous communities in tackling this issue.

35. The United Nations Population Fund should take into consideration the rights of indigenous peoples, in particular women and young people, in their planning, given the disproportionate burden of morbidity and mortality suffered by indigenous women and the gaps in the realization of their sexual and reproductive health rights.

36. The World Health Organization, the World Bank and other international organizations should conduct research into and disseminate information on best practices regarding community-controlled health care, to promote its adoption.

37. Together with States, multilateral agencies and other entities should also invest more resources in research and development for novel, affordable treatments for neglected tropical diseases that are disproportionately experienced by indigenous peoples.

38. The World Health Organization and other United Nations agencies should work with indigenous peoples to develop policy guidelines for incorporation of indigenous traditional knowledge into national health-care systems, including through the recognition of best practices.

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Summary of responses to the questionnaire seeking the views of States and indigenous peoples on best practices regarding possible appropriate measures and implementation strategies in order to attain the goals of the United Nations Declaration on the Rights of Indigenous Peoples

Report of the Expert Mechanism on the Rights of Indigenous Peoples

Summary

The present document contains a summary of responses from States and indigenous peoples to the questionnaires seeking their views on best practices regarding possible appropriate measures and implementation strategies to attain the goals of the United Nations Declaration on the Rights of Indigenous Peoples, as requested by the Human Rights Council in its resolution 30/4.

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I. Introduction

1. In its resolution 18/8 of 2011, the Human Rights Council first requested the Expert Mechanism on the Rights of Indigenous Peoples to undertake, with the assistance of the Office of the United Nations High Commissioner for Human Rights, a questionnaire survey on best practices concerning appropriate measures and implementation strategies to attain the goals of the Declaration on the Rights of Indigenous Peoples. In its resolutions 21/24, 24/10 and 30/4, the Council requested that the Expert Mechanism continue to send out the questionnaire, in order to provide summaries of responses for presentation to the Council. The present report builds upon previous reports presented to the Council at its twenty-first, twenty-fourth, twenty-seventh and thirtieth sessions (A/HRC/21/54, A/HRC/24/51, A/AHRC/27/67 and A/HRC/30/54, respectively).

2. The questionnaire focuses on best practices in the areas of self-determination; participation in decision-making, including free prior and informed consent; languages and culture; non-discrimination and equality; lands, territories and resources; treaties, agreements and other constructive arrangements; and measures taken to promote and protect the rights of women, youth, children, elders, persons with disabilities and other vulnerable groups.

3. The questionnaires for States and indigenous peoples were designed to be as consistent as possible, as far as is reasonable, in order for the responses to be comparable and to promote potential partnerships between States and indigenous peoples in working towards the implementation of the Declaration. All of the questions put to States and indigenous people are reproduced below. The responses from States and indigenous peoples have also been placed on the website of the Expert Mechanism.[1]

4. The Expert Mechanism thanks all States who responded to this year's questionnaires. Responses were received from Australia, Bolivia (Plurinational State of), Canada, Cuba, Denmark and Greenland, Finland, Mexico, Peru and Romania.

5. The Expert Mechanism also thanks the following indigenous peoples, indigenous peoples' organizations and representative bodies, and non-governmental organizations for their responses: Agrupación de Derechos Humanos Xochitépetl A.C.; Associação União das Aldeias Apinajé-Pempxà; Bubi People of Bioko Island; Chemudep Organization of Kenya; World Amazigh Congress; FDAPID-Hope for Indigenous Peoples; Gudang Clan of far northern Cape York, Queensland; International Presentation Association; Organisation Tamaynut; Quixelos People.

II. Responses from States and from indigenous peoples

6. The present section summarizes the responses from States and from indigenous peoples to the questionnaire. It must be borne in mind that responses from States and indigenous peoples may have conflicting views on the benefits of measures adopted to implement the Declaration or the ideal strategies to achieve its implementation.

[1] See www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/QuestionnaireDeclaration.aspx

A. National implementation strategies

7. The questionnaire posed the following question: "Does the State have an overarching national implementation strategy to achieve the ends of the Declaration? If yes, please provide details about the implementation strategy, including how indigenous peoples have been involved. If not, are there any plans to develop one?"

8. This question is linked to the commitment that States have made in the outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples to develop and implement national action plans, strategies and other measures to achieve the ends of the Declaration.

9. Australia stated that, while it did not have an overarching national action plan to achieve the goals of the Declaration, it was working to achieve those goals through implementing programmes and policies that had a direct connection with the articles and principles of the Declaration. Those policies and programmes had been outlined in responses to previous editions of the questionnaire.

10. Finland stated that, as the Declaration was not a legally binding instrument, it was not necessary to prepare and adopt a national plan of action or strategy to promote its objectives and effective realization. Nevertheless, as the Declaration was a political commitment, it was taken into account in national decision-making. For example, the Declaration was considered in the first national action plan on fundamental and human rights of 2012. The second national action plan on fundamental and human rights was currently being developed and would be focused on specific themes, such as the Sami people's right to participation. In Finland, all branches of government worked to integrate human rights into their work.

11. The Plurinational State of Bolivia stated that indigenous peoples' rights were enshrined in its Constitution, and both International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169) and the Declaration were enshrined in the national Constitution. In the light of the outcome document of the World Conference on Indigenous Peoples, the Plurinational State of Bolivia had passed an economic and social development plan that incorporated the right to development of indigenous peoples. Indigenous peoples and communities were involved in the development of the plan, as well as in the preparation of the action plan to implement the rights of indigenous peoples in line with the outcome document.

12. Peru responded by highlighting the creation of the Ministry of Culture in 2010, the main State institution in charge of indigenous peoples' issues. The Vice-Ministry of Intercultural Affairs was the entity responsible for implementing specialized policies for indigenous peoples and providing technical assistance in consultation processes. It was also in charge of administering indigenous territorial reserves for indigenous peoples in voluntary isolation and initial contact.

13. According to Canada, it had committed to a renewed "nation-to-nation" relationship with indigenous peoples and would therefore be engaging with indigenous peoples, provinces and territories, industry and other sectors of Canadian society regarding the implementation of the Declaration in accordance with the Constitution. The ensuing consultations would then form the basis of an action plan. Canada had also committed to significant investment in support of the Truth and Reconciliation Commission's "Calls to Action" and the forthcoming inquiry on missing and murdered indigenous women.

14. Mexico monitored the extent to which legislation was consistent with the Declaration through the special programme for indigenous peoples 2014–2018, which was run by the National Commission for the Development of Indigenous Peoples. The

programme was aimed at promoting and monitoring legislation based on the Constitution, as well as international standards, including the Declaration.

15. Most indigenous peoples' organizations reported a lack of national strategies or plans of action to achieve the ends of the Declaration, although some did highlight specific policies to address certain provisions of the Declaration.

B. Self-determination and autonomy

16. The questionnaire posed the following question: "Have specific legislative, policy or administrative measures relating to self-determination and autonomy been adopted in your country? If yes, please provide details. If not, please outline any plans to develop legislative, policy or administrative measures in this area."

17. The importance of self-determination has been highlighted through the work of the Expert Mechanism, including in its studies on access to justice (see A/HRC/24/50 and Corr.1 and A/HRC/27/65). The Expert Mechanism has repeatedly maintained that self-determination is an essential element for the fulfilment of other rights.

18. In its response, Denmark and Greenland referred to the 2009 Act on Greenland Self-Government, details and a copy of which were attached to a letter dated 8 February 2010 submitted to the General Assembly under the agenda item on the implementation of the Declaration on the Granting of Independence to Colonial Peoples and Countries (A/64/676) during its sixty-fourth session. In the preamble to the Act, it was recognized that the people of Greenland were a people, pursuant to international law, with the right to self-determination. The Act was based on an agreement between the Naalakkersuisut (Government of Greenland) and the Government of Denmark as equal partners. It provided for Greenland to assume new responsibilities and introduced new arrangements for mineral resources and economic issues. The Act affirmed that the Greenland self-government authorities exercised legislative and executive power in the fields of responsibility attributed to it.

19. According to Australia, the country did not have specific legislative measures on self-determination. However, Australia was a party to seven core international human rights treaties that recognized the right to self-determination. Australia recognized that people have the right to internal self-determination as reflected in article 46 of the Declaration.

20. Article 289 of the Constitution of the Plurinational State of Bolivia enshrined the rights of indigenous peoples to self-governance and self-determination. The Plurinational State of Bolivia had a process in place for claiming indigenous autonomy that allowed for political, judicial, social, economic and cultural autonomy. In 2009, 11 indigenous municipalities had become autonomous through that process.

21. Peru highlighted policies and technical instruments for the protection of indigenous peoples in voluntary isolation and initial contact, including protection and monitoring of territorial reserves.

22. Under the constitutional framework of Canada, indigenous peoples' inherent right to self-government was recognized as an existing aboriginal right under section 35 of the Constitution. As such, self-government arrangements could be negotiated as part of modern treaties, which allowed indigenous peoples to govern their own internal affairs. Canada must consult with indigenous peoples where Crown actions could adversely affect protected treaty rights.

23. In Mexico, 23 states had recognized the right to self-determination and autonomy. Furthermore, the National Commission for the Development of Indigenous Peoples, together with the Electoral Tribunal of the Federal Judiciary, had conducted several

intercultural dialogues on indigenous legal systems, which had ensured that Tribunal staff were aware of the right to self-determination and autonomy of indigenous peoples and communities and that those principles were implemented on the ground.

24. Indigenous organizations mostly highlighted the lack of any legislation or plan to develop legislation in relation to the protection or promotion of self-determination and autonomy. Furthermore, an indigenous peoples' organization from Brazil reported that there were several proposals currently before the parliament that would undermine the rights of indigenous peoples.

C. Participation in decision-making and free, prior and informed consent

25. The questionnaire posed the following question: "Have specific legislative, policy or administrative measures been adopted to implement rights relating to participation in decision-making, including the obligation to seek free, prior and informed consent? If yes, please provide the details. If not, please outline any plans to develop legislative, policy or administrative measures in this area."

26. Finland responded that it was intending to revise the Act on the Sami Parliament (974/1995) and that the Ministry, in that context, would reiterate that the current obligation to negotiate under section 9 should be changed to better comply with the principle of free, prior and informed consent. Finland also referred to a State-owned enterprise, Metsähallitus, which conducted business activities on State-owned land and waters. Under the administering law, municipal advisory committees were appointed in the Sami homeland regions and they were composed of representatives from various bodies, including the Sami Parliament, the municipality, reindeer-herding cooperatives, the fisheries region and commercial fisheries. Those committees issued opinions to Metsähallitus.

27. Consistent with the Declaration, Australia recognized the importance of engaging in good-faith negotiations with indigenous peoples in relation to decisions that affected them. One example was the Empowered Communities initiative being implemented in eight regions across Australia. Australia also interpreted the principle of free, prior and informed consent as consistent with the territorial and political sovereignty of Australia.

28. The response of the Plurinational State of Bolivia highlighted the fact that the right to free, prior and informed consultation was established in the country's Constitution. The State also had a number of other pieces of legislation relating to consultation in the context of specific activities, such as extractive operations.

29. Canada responded that aboriginal treaty rights were protected under section 35 of the Constitution. The Supreme Court of Canada required the Crown to consult with indigenous peoples and accommodate where possible their interests in cases where indigenous constitutionally protected rights could be infringed. Canada would be undertaking a review, in partnership with First Nations, Inuit and Metis Nation, of laws, policies and operational practices to ensure the Crown was respecting those constitutionally protected aboriginal and treaty rights.

30. Mexico ensured that indigenous peoples were adequately consulted when the National Commission for the Development of Indigenous Peoples undertook its afore-mentioned monitoring of the extent to which legislation was consistent with the Declaration. For example, that consultation process was recently followed in Baja California, Baja California Sur, Durango, Sinaloa and Campeche.

31. Several indigenous peoples' organizations emphasized that free, prior and informed consent was either not referred to or was not well articulated in laws and policies and

provided examples of large-scale public works, such as hydroelectric dams, or extractive industries pursuing their activities on indigenous peoples' lands without their consent.

D. Participation of indigenous peoples in the development and implementation of legislative, policy or administrative measures that affect them

32. Finland responded that the Act on Metsähallitus, which included provision for municipal advisory committees in the Sami homeland, was drafted by a working group appointed by the Ministry of Agriculture and Forestry on 16 June 2013. That working group included representatives from the Sami Parliament and the Skolt Sami Village Council.

33. Australia engaged with a range of Aboriginal and Torres Strait Islander leaders, organizations and communities when designing policies and programmes and implementing services. One example was the National Aboriginal and Torres Strait Islander Health Plan 2013-2023, which recognized the importance of Aboriginal and Torres Strait Islander peoples' involvement in the planning, design and implementation of health services.

34. Denmark and Greenland stated that the 2009 Act on Greenland Self-Government demonstrated the commitment to and implementation of the Declaration. The Act required the Naalakkersuisut (Government of Greenland) to be heard on all other matters affecting Greenland and the Government of Denmark. It required all bills of the Government of Denmark that might be brought into force in Greenland to be submitted to the autonomous government for comments. The Government of Denmark was required to await those comments before presenting bills to the Danish parliament.

35. Peru reported on the establishment of a working group on public policies focusing on indigenous peoples, which was a space for participation and dialogue between indigenous peoples and the executive power to coordinate, propose and monitor such public policies. Peru also highlighted its quota system in place in certain departments and provinces to address the gaps in the political representation of indigenous peoples. Peru reported on consultation processes, pointing out that of 11 processes carried out in 2015–2016, nine had concluded with agreements between indigenous peoples and the State.

36. Indigenous peoples in Canada had treaty or self-government agreements, which Canada was bound to respect. Canada must consult with or secure agreement from indigenous government (as set out in such agreements) when developing and implementing legislative, policy or administrative measures that affected the rights of indigenous peoples. Canada submitted that it was also in the process of undertaking an extensive review to ensure compliance on the part of the Crown with aboriginal and treaty rights.

37. Mexico had ensured that indigenous peoples were consulted during the development of the National Development Plan by holding consultation meetings with representatives of indigenous peoples and communities. Furthermore, 22 state constitutions and 24 state laws recognized the right to consultation and participation of indigenous peoples and indigenous communities. In 2004, the Government of Mexico had also established the Advisory Council of the National Commission for the Development of Indigenous Peoples. That body had become the main organ of participation and consultation for indigenous peoples.

38. Answers from indigenous peoples' organizations described situations ranging from complete exclusion from decision-making to pro forma processes for participation, carried out by the State simply to comply with protocols, but not in good faith. Other organizations stated that the non-recognition of their indigenous status by Government authorities hampered any attempts to participate in decision-making.

E. Cultures and languages

39. The questionnaire posed the following question: "Have specific legislative, policy or administrative measures been adopted to implement rights relating to cultures and languages? If yes, please provide details. If not, please outline any plans to develop legislative, policy or administrative measures in this area."

40. The Government of Finland safeguarded Sami-language social welfare and health-care services by way of a separate discretionary transfer that was paid out through the Sami Parliament. In 2016, the discretionary transfer amount was €480,000. The Sami Parliament prepared an annual plan for the spending of that money. The discretionary government transfer was a key channel for the Sami people to influence the provision, organization and contents of services arranged for them and thus to steer the way in which Sami language and culture were maintained and developed in their homelands. On 3 July 2014, the Government had made a decision in principle on a programme to revive the Sami language, concerning all Sami languages spoken in Finland, which it considered to be under threat. The measures for the revival of language were under way and included securing funding for "language nest" activities and increased allocations for the production of teaching materials in the Sami language.

41. The response of Denmark and Greenland referred to the 2009 Act on Greenland Self-Government, which recognized the Greenlandic language as the official language in Greenland.

42. Australia provided funding support to maintain, preserve and transmit the estimated 250 languages spoken in the country. That funding supported community-based activities, languages research and the development of language resources. Aboriginal languages were also now being taught in some schools and, in 2016, had been included in the New South Wales Higher School Certificate for the first time. Aboriginal languages were also supported though the Australian Curriculum, Assessment and Reporting Authority's draft Framework for Aboriginal Languages and Torres Strait Islander Languages.

43. The Plurinational State of Bolivia responded by outlining the Avelino Siñani Law, which had created the Plurinational Institute of Languages and Cultures. The Institute had the objective of promoting the development of indigenous languages and culture, which it achieved through the creation of the various language and cultural institutions for each indigenous group, of which there were currently 16. Furthermore, the Ministry of Education had ensured the production of school textbooks in 23 indigenous languages. Education curricula were also permitted to be adapted regionally to ensure that the Bolivian education system remained plurinational. There were currently 11 regional-specific curricula.

44. Peru reported the strengthening of its national register of interpreters and translators of indigenous languages, as well as the development of the National Plan for Intercultural Bilingual Education.

45. According to Canada, the federal Department of Canadian Heritage was responsible for administering funding related to the Aboriginal Peoples Program, which supported retention and revitalization of culture, heritage and language. Canada negotiated treaties and other self-government agreements with indigenous peoples and those agreements also provided individual groups with the ability to protect their language and culture.

46. In Mexico, the National Commission for the Development of Indigenous Peoples was the government agency responsible for implementing rights relating to culture and languages. The Commission had carried out several initiatives since 2014 to improve the implementation of those rights. Those initiatives had covered a wide range of topics, including art, food, music, dance, film, traditional ceremonies, crafts, contemporary indigenous literature and traditional medicine. For example, to ensure access to justice for

indigenous peoples, the Commission had established a system that allowed an indigenous person to access legal services in his or her indigenous language through the provision of translators. It was estimated that, in the period from 1 December 2012 to 31 May 2016, the Commission had provided language support services to 3,888 indigenous persons.

47. Indigenous peoples' organizations described advances in that area, in one case with support from the private sector. In other cases, while constitutional recognition of indigenous languages existed, there were no measures taken to ensure their promotion and protection.

F. Non-discrimination and equality

48. The questionnaire posed the following question: "Have specific legislative, policy or administrative measures relating to non-discrimination and equality been adopted? If yes, please provide details. If not, please outline any plans to develop legislative, policy or administrative measures in this area."

49. Finland had the new Non-Discrimination Act (1324/2014), which provided for the appointment of the Non-Discrimination Ombudsman and expanded the scope of protection against discrimination. The Act applied to all public and private activities and included obligations for public authorities to develop "equality plans" concerning education and employment. The Act was overseen by a new tribunal, which covered all grounds of discrimination and could undertake conciliation between parties and impose fines in order to reinforce its decisions.

50. Discrimination and vilification on the basis of race was prohibited in Australia under the Racial Discrimination Act 1975 and individuals who experienced such discrimination could make a complaint to the Australian Human Rights Commission.

51. Article 9 of the Constitution of the Plurinational State of Bolivia stated that one of the essential functions of the State was to create a just society, free from discrimination and exploitation. Article 14 of the Constitution stipulated that the State prohibited and sanctioned all forms of discrimination. The country also had a law against racism and all forms of discrimination. That law had the objective of establishing mechanisms and processes to prevent and sanction acts of racism and all forms of discrimination.

52. Peru reported on measures taken in the health sector to ensure indigenous peoples' access to health services on a non-discriminatory basis, as well as to ensure that those services were intercultural in nature. Peru also had a national policy on the mainstreaming of a multicultural approach, which was mandatory for all State institutions.

53. Canada responded that it had a constitutional and legislative framework protecting the rights of indigenous peoples, including in relation to discrimination and equality. It was also launching an inquiry to address known forms of gender-based discrimination related to the transmission of Indian status.

54. Mexico guaranteed the right to non-discrimination and equality through its national constitution, as well as through various legislative instruments, such as article 3 of the General Law for Equality between Men and Women. The National Commission for the Development of Indigenous Peoples also contributed to the protection of those rights through various national programmes, such as the National Programme for Equality and Non-Discrimination 2014-2018.

55. Responses from indigenous peoples' organizations emphasized that, despite constitutional and/or legislative guarantees, structural discrimination against indigenous peoples persisted.

G. Lands, territories and resources

56. The questionnaire posed the following question: "Have specific legislative, policy or administrative measures been adopted to implement rights relating to lands, territories and resources? If yes, please provide details. If not, please outline any plans to develop legislative, policy or administrative measures in this area."

57. The response of Finland referred to the new Fishing Act (379/2015), according to which a person who resided permanently in certain municipalities had a right to obtain a permit from Metsähallitus concerning fishing in State-owned water free of charge. There were some exceptions to that provision, however.

58. The Government of Denmark and the Government of Greenland were currently in the process of resolving a claim to the continental shelf north of Greenland. The claim area was for approximately 895,541km^2 beyond 200 nautical miles of the coast of Greenland. The claim material had been submitted to the Commission on the Limits of the Continental Shelf through the Secretary-General, in accordance with the United Nations Convention on the Law of the Sea, ratified by the Kingdom of Denmark in 2004.

59. The response of Australia stated that there were state and federal legislative schemes that recognized Aboriginal peoples' rights to lands and territories. Under the Aboriginal Land Rights (Northern Territory) Act 1976, the Aboriginal Lands Trust could apply for inalienable freehold title to be granted. About 50 per cent of the land mass of the Northern Territory was covered under the Act, as was about 80 per cent of the coastline. Therefore, it was one of the most significant pieces of land rights legislation in Australia. At the federal level, the Native Title Act 1993 provided an avenue for indigenous claimants to seek native title recognition of their land under Australian law.

60. The Plurinational State of Bolivia responded that its Constitution guaranteed the possession, access and title of indigenous territories in the framework of their self-determination and their right to autonomy, self-governance and culture. Since 2006, the State had transformed the agrarian property structure and now 23.9 million hectares of land belonged to indigenous communities. In 2015 alone, the State had awarded 295,000 titles of land to indigenous peoples and communities.

61. Peru reported on measures to prevent illegal logging on indigenous territories, as well as on measures to recognize the collective ownership of lands through formal titles.

62. Canada outlined the recognition and protection of aboriginal and treaty rights under section 35 of the Constitution. That framework provided indigenous peoples with the right to participate in decision-making on matters affecting them, including on lands, territories and resources. Comprehensive land agreements also received constitutional protection and provided for ownership, use and management of land and resources.

63. Indigenous peoples' organizations' responses highlighted a range of issues: from a complete lack of legislative measures to address their claims over their lands, to situations in which, despite constitutional recognition of their lands and territories, demarcation processes had not moved forward sufficiently and land invasion and resource extraction persisted.

H. Treaties, agreements and other constructive arrangements with States

64. The questionnaire posed the following question: "Have specific legislative, policy or administrative measures been adopted to implement rights relating to treaties, agreements and other constructive arrangements with States? If yes, please provide details. If not,

please outline any plans to develop legislative, policy or administrative measures in this area."

65. Finland was in the process of negotiations for a Nordic Sami convention intended to develop the status of the Sami as an indigenous people. It had also ratified the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity. The Government was furthermore in the process of ratifying International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169) and the ratification bill would be based on a study that drew on international norms, experiences and practices concerning the rights of indigenous peoples.

66. In Australia, international treaties and international human rights were given recognition through various laws designed to implement such rights domestically, such as the Race Discrimination Act 1975. All bills of Parliament must also be scrutinized in accordance with the Human Rights (Parliamentary Scrutiny) Act 2011, which required that bills be accompanied by a statement of compatibility assessing the compatibility of the proposed legislation with the human rights recognized under the core human rights treaties Australia had ratified.

67. Canada had a constitutional and legislative framework that protected indigenous peoples' rights to participate in decision-making that affected them, including in relation to treaties, agreements and other constructive arrangements with the State. Canada also negotiated modern-day treaties and self-government agreements with indigenous groups and those agreements provided that Canada would consult with indigenous groups before agreeing to international obligations that could have an adverse impact on the group.

68. In response to the question, the Plurinational State of Bolivia highlighted the implementation of the first stage of a programme intended to protect indigenous peoples who lived in voluntary isolation or were in initial contact.

I. Indigenous women, youth, children, elders, persons with disabilities and any other vulnerable group

69. The questionnaire posed the following question: "Please describe any particular measures taken to promote and protect the rights of indigenous persons belonging to the following groups: women, youth, children, elders, persons with disabilities and any other vulnerable groups (such as lesbian, gay, bisexual and transgender persons). If no such measures have been taken, please outline any plans to do so."

70. Finland noted that the Sami Parliament had identified the priority areas for the discretionary funding transfer for 2016 as being services for older people and health care. The Ministry of Justice had also established an intergovernmental network of contact persons for fundamental human rights, which would be tasked with developing a national action plan on fundamental human rights. Gender equity policies were pursued under the Ministry of Social Affairs and Health, which ensured gender was included in all areas of decision-making and the Sami people were included in that work.

71. In Finland, Sami children were entitled to child health services similar to all other children in a municipality. The Government supported Sami youth through the Youth Council of the Sami Parliament, which promoted the linguistic and cultural rights of young Sami people.

72. Denmark and Greenland referred to legislation passed in 2014 to recognize "legally fatherless" Greenlanders, i.e. children born out of wedlock who had no rights to inheritance from their fathers. The Danish parliament had introduced legislation to improve the rights

of such persons by allowing them to initiate proceedings to determine who their father was and establishing inheritance rights. Furthermore, Greenlanders living in Denmark affected by social vulnerability were supported as part of the strategy for vulnerable Greenlanders living in Denmark, for which 13.4 million krone had been earmarked for the period 2013-2016.

73. The response of Australia referred to federal, state and territory anti-discrimination laws, which protected individuals from discrimination, including women, children, persons with disabilities and lesbian, gay, bisexual and transgender persons.

74. Peru stated that its emphasis had been on three groups: indigenous persons without identity documents; indigenous peoples living in border areas with difficult access; and indigenous women.

75. Canada reported that it had specific measures for the promotion and protection of the rights of women, youth, children, persons with disabilities and other vulnerable groups. The Constitution also contained the Charter of Rights, which protected human rights.

76. Mexico stated that it promoted and protected the rights of indigenous persons belonging to vulnerable groups through the National Commission for the Development of Indigenous Peoples, which had facilitated the release of indigenous persons from incarceration, provided translation and interpreting services in indigenous languages and promoted the rights of indigenous women. The Commission had also spearheaded a variety of programmes that focused on such topics as the following: violence against women; the full exercise of citizenship rights by indigenous youth; improving the productivity of projects run by indigenous people, with a focus on women; school attendance rates for indigenous children and youth; infrastructure for indigenous communities, including housing, with a focus on single mothers and persons with disabilities; and the electoral rights of indigenous peoples, with a focus on indigenous women.

J. Raising awareness about the Declaration

77. The questionnaire posed the following question: "Has the State taken measures to raise awareness about the Declaration among various sectors of society, including parliamentarians, the judiciary, the civil service and indigenous peoples?"

78. The Ministry for Foreign Affairs in Finland was in the process of publishing the Declaration, as well as the outcome document of the World Conference on Indigenous Peoples.

79. Denmark advised that, as a member State of the European Union, it contributed actively to bringing European Union policies into line with the Declaration. It had provided the European Union with a senior national adviser on indigenous issues to support an update of the European Union policy and guidelines on indigenous peoples.

80. Australia had provided information previously (in 2014 and 2015) about its efforts in that regard.

81. Peru discussed training programmes carried out by the Ministry of Culture to improve awareness of collective rights enshrined in national and international legal frameworks. Those programmes had reached 4,454 indigenous leaders, 2,384 civil servants, and 508 members of the general public.

82. Canada has promoted the Declaration in society at large and with indigenous peoples, parliamentarians and civil society. The Government of Canada had announced the country's full support for the Declaration without qualification and had outlined plans on how it could be implemented domestically in accordance with the Constitution.

83. Mexico had carried out training programmes on the Declaration through local events and projects aimed at indigenous peoples and run by civil society organizations and the National Commission for the Development of Indigenous Peoples. During the period from 1 July 2015 to 30 May 2016, training was also provided to 762 civil servants on a range of human rights issues, although none of the topics focused specifically on the Declaration.

84. Indigenous peoples' organizations reported measures taken to increase awareness of indigenous peoples' rights, including dissemination of printed copies of the Declaration, radio progammes and training.

K. Challenges

85. The questionnaire posed the following question: "What are the main challenges encountered in adopting measures and implementing strategies to achieve the ends of the Declaration?"

86. Finland observed that a major challenge in that regard concerned the rights of Sami people who did not live in their homelands, as was the case for 60 per cent of Sami people. Sami people who lived outside of their homeland had the constitutional right to language and culture and were assisted with educational needs. There were some Sami cultures (including Skolt Sami and Inari Sami) that were described as being on the "verge of extinction", as not many people now spoke the language. Another challenge concerned Sami victims of violence and discrimination. As the community was relatively small, there was concern about confidentiality of sensitive issues. Some issues related to health and social services were also seen as "taboo" and, to counter those challenges, the Government had incorporated special measures into its standard service.

87. Australia noted that barriers existed due to differences in Aboriginal and Torres Strait Islander life experiences, geography, discrimination and other factors. Australia had previously responded to the question and would appreciate hearing from other Member States as to best practices. Australia had previously provided information about the matter, including: the need for evidence to inform the development of programmes and policies; the importance of engagement of Aboriginal and Torres Strait Islander peoples; and the recognition of the need for assessment and flexibility in programme design and delivery to assist in achieving the aims of the Declaration. Australia referred to the National Aboriginal and Torres Strait Islander Health Plan 2013-2023 and its implementation plan, which recognized the need to support Aboriginal and Torres Strait Islander well-being through ensuring connection to land, culture and community, as well as the need to ensure that indigenous peoples were involved in the planning, design, delivery and implementation of health services.

88. Denmark and Greenland reported on a round table held by the International Work Group for Indigenous Affairs in October 2015 on indigenous peoples and the post-2015 development agenda. One of the issues discussed was how to link the implementation of the Declaration to the implementation of the Sustainable Development Goals.

89. According to Canada, the main challenge was to ensure that indigenous peoples were full partners in the implementation of the Declaration and the development of an action plan. Modern treaty and agreement-making processes had also proven to be very challenging for complex reasons and efforts were under way to increase the efficiency of such processes.

90. Mexico stated that one of the main challenges for States was how to work collaboratively with indigenous peoples to implement measures consistent with the aims of the Declaration. For example, a priority for the Government of Mexico was the development of a national action plan for the implementation of the outcome document of

the World Conference on Indigenous Peoples; however, that must be done in such a way that it respected and was in compliance with the rights of indigenous peoples.

91. Some indigenous peoples' organizations reported that their recognition as distinct peoples constituted an overarching challenge. Other challenges included a lack of political will from State authorities, language barriers, gaps in the legal framework and a lack of financial resources among indigenous peoples' organizations to carry out their mission.

L. Best practices

92. States and indigenous peoples were asked to provide examples of best practices regarding possible appropriate measures and implementation strategies to attain the goals of the Declaration. The following practices were described by States in their responses.

93. Finland was engaging its Government and the Sami Parliament in talks concerning the World Conference on Indigenous Peoples and was mapping out relevant national action. It had organized meetings of government representatives with indigenous peoples from Denmark, Finland, Norway and Sweden, including in relation to the review of the Expert Mechanism, as well as the participation of indigenous peoples at the United Nations.

94. In Finland, Metsähallitus was also enhancing measures to strengthen the participation of the Sami Parliament and the Skolt Sami Village Council in planning the management and use of State-owned lands and waters in the Sami homeland. It had developed methods for participatory planning. For example, the management plan for the Hammastunturi Wilderness Area was based on article 8 (j) of the Convention on Biological Diversity. Another example of best practice, according to the State, was reflected in section 49 of the Environmental Protection Act (572/2014), which concerned the granting of environmental permits and imposed the precondition for the granting of such permits that the planned activities would not weaken the Sami people's opportunities to carry on traditional livelihoods or otherwise maintain and develop their cultures.

95. Denmark and Greenland responded that they worked closely to promote indigenous peoples rights at the international level. A recent example was the fifteenth session of the Permanent Forum on Indigenous Issues, where Denmark and Greenland had prepared two national statements and participated in four joint Nordic statements in support of the rights of indigenous peoples.

96. In Australia, the Aboriginal community-controlled health sector was described as a model of self-determination. The Aboriginal community-controlled health organizations had the following key attributes in common: they were incorporated Aboriginal organizations, initiated by local communities, based in local communities, governed by an Aboriginal body elected by the community and delivering holistic and culturally appropriate health services to the community. The importance of the Aboriginal community-controlled health organizations was recognized in the National Aboriginal and Torres Strait Islander Health Plan 2013-2023 and subsequent implementation plan, which built on the Declaration and recognized the importance of indigenous partnerships.

97. The Constitution of Canada recognized aboriginal rights and ensured that the Crown was responsible for any breach of such rights, which had led to a substantial body of jurisprudential law in support of aboriginal rights. The Government would also be engaging with indigenous peoples to develop an action plan to implement the Declaration at the national level.

98. Mexico provided a range of examples of best practice that contributed to achieving the goals of the Declaration. Those examples focused specifically on programmes carried out by the National Commission for the Development of Indigenous Peoples. For example,

under the National Register of Bilingual Indigenous Lawyers, between 1 January 2013 and 30 June 2016, 198 indigenous lawyers had been trained on a range of indigenous legal issues, such as land rights of indigenous peoples and communities. The purpose of that programme was to improve the availability of legal services that were relevant to the specific legal issues of indigenous peoples, as well as being sensitive to the cultural and linguistic needs of indigenous peoples.

99. Good practices highlighted by indigenous peoples included the joint ownership and management of lands in national parks and programmes to teach indigenous languages to civil servants.

M. Use of the studies and advice of the Expert Mechanism

100. The questionnaire posed the following question: "Have the thematic studies and advice of the Expert Mechanism been used in the formulation of laws, policies and programmes pertaining to indigenous peoples' rights?"

101. According to Australia, the thematic studies of the Expert Mechanism provided a background to support policy and programme development. They also provided an opportunity to learn from other States and to provide different perspectives. The studies had not yet been used directly in the formulation of laws, policies and programmes but rather the information was being used indirectly.

102. Mexico stated that the National Commission for the Development of Indigenous Peoples was guided by the studies and advice of the Expert Mechanism when carrying out its work and specific programmes.

103. Several indigenous peoples' organizations reported that, to their knowledge, the studies and advice of the Expert Mechanism were not being used by States when formulating laws and policies concerning indigenous peoples.

III. Concluding comments

104. **The Expert Mechanism on the Rights of Indigenous Peoples very much appreciates the responses of States and of indigenous peoples and indigenous peoples' organizations to its questionnaire, in particular first-time respondents. The responses received allow the Expert Mechanism to evaluate some of the advances and challenges in the implementation of the Declaration from the perspective of both States and indigenous peoples. However, the Expert Mechanism regrets the relatively low number of responses received and the fact that many States with indigenous peoples did not submit any information on their laws, policies and practices related to the implementation of the Declaration.**

105. **The majority of responses received from States provide very general information. While information was provided on laws, policies and programmes relating to indigenous peoples, there was almost no information indicating the effectiveness of the measures taken. Most States provided only positive answers to questions. Answers outlining challenges would also provide a greater understanding of the barriers faced by States when implementing the Declaration.**

106. **The responses received suggest that very few States have developed comprehensive national strategies to implement the Declaration. Given the interdependence and interrelated nature of the rights contained in the Declaration, its implementation requires comprehensive approaches and actions, as highlighted in the outcome document of the World Conference on Indigenous Peoples.**

107. **Several responses from States showed encouraging progress in terms of efforts to adopt national legislation relating to indigenous peoples' right to participate in decision-making. However, it was not always clear whether States were following the obligation to seek indigenous peoples' free, prior and informed consent.**

108. **Responses from indigenous peoples provide examples of approaches and activities, including advocacy and awareness-raising, development of resources on the Declaration, training for indigenous communities and organizations, and translating the Declaration into indigenous languages.**

109. **However, few of the representatives of indigenous peoples who responded proposed overarching strategies for implementation of the Declaration. That may partly be due to the fact that most of the indigenous respondents work at the local level and are generally limited by a lack of financial resources and, in some cases, by a lack of will from State institutions to cooperate and engage with indigenous peoples.**

110. **Several responses from both indigenous peoples' organizations and States point towards the fact that indigenous women, children, youth and persons with disabilities are in a particularly vulnerable situation. Targeted measures must be taken to address the situation of those groups.**

111. **Most indigenous peoples' organizations reported a lack of attention devoted by States in considering the Declaration and, more generally, the rights of indigenous peoples. Those concerns hamper the effective implementation of the Declaration.**

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Report of the open-ended intergovernmental working group on a draft United Nations declaration on the rights of peasants and other people working in rural areas*

Chair-Rapporteur: Nardi Suxo Iturry

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Contents

		Page
I.	Introduction	3
II.	Organization of the session	3
	A. Election of the Chair-Rapporteur	3
	B. Attendance	3
	C. Documentation	4
	D. Adoption of the agenda and organization of work	4
	E. Video statement by José Graziano da Silva	4
	F. Summary of the previous two sessions and next steps	5
III.	Panel discussion on the content of the draft declaration	5
IV.	General statements	6
V.	Second reading of the draft declaration	8
	A. Articles 1 to 5	8
	B. Articles 6 to 12	11
	C. Articles 13 to 18	14
	D. Articles 19 to 24	15
	E. Articles 25 to 30 and preamble	18
VI.	Conclusions and recommendations of the Chair-Rapporteur	20
	A. Conclusions	20
	B. Recommendations of the Chair-Rapporteur	20
VII.	Adoption of the report	20
Annexes		
I.	Agenda	21
II	List of invited speakers	22
III	List of specific comments on the draft	23

I. Introduction

1. The open-ended intergovernmental working group on a United Nations declaration on the rights of peasants and other people working in rural areas was established by the Human Rights Council in its resolution 21/19. The working group has a mandate to negotiate, finalize and submit, to the Council, a draft declaration on the rights of peasants and other people working in rural areas. In its resolution 30/13 of 1 October 2015, the Council decided that the working group would hold its next two annual sessions for five working days each before the thirty-sixth session of the Council. The working group held its third session from 17 to 20 May 2016.

2. The third session was opened by Jyoti Sanghera, on behalf of the United Nations High Commissioner for Human Rights. Ms. Sanghera noted the recent conclusion of the global climate agreement adopted in Paris in 2015, and the adoption of the 2030 Agenda for Sustainable Development. She emphasized the importance of building food systems that moved away from fossil fuels and were resilient to extreme climate conditions, and noted the relevance of several Sustainable Development Goals and targets for peasants and other people working in rural areas. Ms. Sanghera recalled normative developments in other United Nations bodies, such as the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, which had been endorsed by the Committee on World Food Security in 2012. She expressed the view that the working group could guide the international community by contributing to the development of a set of specific human rights protections to address the vulnerabilities faced by those working in rural areas.

II. Organization of the session

A. Election of the Chair-Rapporteur

3. At its third session, the working group elected Nardi Suxo Iturry (Plurinational State of Bolivia) as its Chair-Rapporteur, on the nomination of Latin American and Caribbean States, represented by Honduras.

B. Attendance

4. Representatives of the following States Members of the United Nations attended the third session of the working group: Algeria, Argentina, Austria, Azerbaijan, Belgium, Bolivia (Plurinational State of), Botswana, Brazil, Burundi, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Czech Republic, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Finland, France, Germany, Ghana, Guatemala, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Japan, Jordan, Kenya, Malaysia, Mexico, Morocco, Mozambique, Myanmar, Netherlands, Nicaragua, Nigeria, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Republic of Korea, Russian Federation, Saudi Arabia, Senegal, Slovakia, Slovenia, South Africa, Spain, Switzerland, Syrian Arab Republic, Togo, Tunisia, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela (Bolivarian Republic of) and Zambia.

5. The following non-Member States were represented as observers: Holy See and Palestine.

6. The following intergovernmental organizations were represented at the meeting of the working group: European Union, Food and Agriculture Organization of the United Nations (FAO) and South Centre.

7. The following non-governmental organizations were represented: American Anthropological Association; Stiftung Brot fuer Alle; Centre Europe-tiers monde; Centro de Estudios Legales y Sociales; Comité français pour la solidarité internationale; Foodfirst Information and Action Network (FIAN International); International Federation of Rural Adult Catholic Movements; Programme on Women's Economic, Social and Cultural Rights; Réseau international des droits humains; Social Service Agency of the Protestant Church in Germany; Third World Network; Quaker United Nations Office; United Villages; and International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Association.

C. Documentation

8. The working group was provided with the new text of the draft declaration (A/HRC/WG.15/3/2), as well as the following documents:

(a) Resolution 30/13 on the promotion and protection of the human rights of peasants and other people working in rural areas;

(b) Report of the open-ended intergovernmental working group on the draft United Nations declaration on the rights of peasants and other people working in rural areas (A/HRC/30/55).

D. Adoption of the agenda and organization of work

9. The Chair thanked the members of the working group for her election and reminded participants of the mandate of the working group. She indicated that the draft declaration had been translated into all the official languages of the United Nations and made available in advance, and that she intended to facilitate the negotiations in an open, transparent and participatory manner.

10. The Chair explained the modalities of the debate, and noted that the main objective of the session was to gather views on the draft so as to prepare a revised draft for the fourth session.

E. Video statement by José Graziano da Silva

11. José Graziano da Silva, Director General of FAO, shared his view that the declaration would help to maintain attention on food security, nutrition and sustainable food systems. Mr. Graziano noted that the declaration bore close links to several principles and guidelines adopted by the Committee on World Food Security and FAO bodies. He stated that it was important to ensure coherence with existing normative instruments, and to avoid renegotiating issues on which agreement had been reached over many years. He invited the working group to seek to achieve consensus.

F. Summary of the previous two sessions and next steps

12. The Chair recalled the developments that had taken place during the previous two sessions and described the different meetings she had held with various stakeholders since the end of the second session, as conveyed during the informal consultation that had taken place on 27 April 2016.

13. The Chair stated that the second reading of the draft declaration would take place by blocks of articles. She asked participants to provide specific wording, if possible, in order to help improve the text.

III. Panel discussion on the content of the draft declaration

14. Sue Longley (International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Association) stated that the declaration should accurately reflect the composition of the rural workforce. The specific concerns of waged workers, who did not own or rent the land they worked on, must be addressed. Ms. Longley maintained that one of the main challenges facing rural workers was with regard to freedom of association, recognized as early as 1921 in the Right of Association (Agriculture) Convention, 1921 (No. 11) of the International Labour Organization (ILO). Although that Convention had been widely ratified, agricultural workers did not have access to the protection of labour laws that was enjoyed by other workers. Ms. Longley expressed the view that the declaration reflected some of the ILO conventions covering rural workers, in particular articles 11, 15 and 16, but she thought that the Declaration could be reinforced with regard to wages (ILO Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99)), migrant workers and the social protection floor. She welcomed the paragraph on the right to work free from harassment. The declaration should also address the issue of forced and bonded labour.

15. Sofia Monsalve (FIAN International) stated that the declaration should address normative gaps in the protection of the human rights of peasants and other people working in rural areas, and reaffirm both individual and collective rights. In her view, normative gaps were most apparent in relation to the rights to land, seeds, and water for livelihoods. While the human right to land had largely been developed with regard to the rights of indigenous peoples, there was no similar protection for other vulnerable rural communities for whom access to land was equally essential to their survival. Similarly, although the rights to seeds and agricultural biodiversity had been developed in the Convention on Biological Diversity and in the International Treaty on Plant Genetic Resources for Food and Agriculture, the recognition of a human right to seeds would go further than those two frameworks in highlighting the relationship between human rights and nature and the importance of land and seeds for human dignity. The declaration should recognize community-based and customary water rights.

16. Elizabeth Mpofu (La Via Campesina (LVC)) said that displacement, criminalization and discrimination affecting peasants had increased significantly. Such violations were led mainly by capitalist interests and transnational companies. The declaration could provide a new tool for farmers to defend their lives and their land. She stated that the declaration should reflect the radical demands of LVC in defence of the rights to life, an adequate standard of living, land and territory, seeds, information, justice and equality between men and women. The current wording of articles 4, 6, 8-10, 12-13, 21 and 27-30 was adequate. However, there were some articles that required further work, such as articles 1-2, 5, 16, 18, 19, 22 and 25, which should better recognize the unique link between peasants, food and natural resources and clearly include the obligations of States.

17. Sangeeta Shashikant (Third World Network) stated that the right of peasants to seeds was already recognized in article 9 of the International Treaty on Plant Genetic Resources for Food and Agriculture, and as part of the right to food. However, the rights to seeds and other propagating material were threatened by the advancement of seed certification and marketing laws and intellectual property regimes that outlawed peasant practices, such as the 1991 Act of the International Union for the Protection of New Varieties of Plants. The key issues facing peasants were the protection of traditional knowledge and equitable benefit sharing; increasing restrictions on saving, exchanging and selling protected seeds; and cases of misappropriation of seeds. Ms. Shashikant stated that existing legal instruments were clearly inadequate and implementation was weak. It was imperative that article 22 of the declaration be maintained in its entirety. She insisted on the importance of the right of peasants to sell protected seeds.

IV. General statements

18. The representative of the Islamic Republic of Iran, on behalf of the Non-Aligned Movement, reiterated the support of that country for the achievement of the right to food and its commitment to fight hunger and malnutrition. The need to address the economic, social and environmental challenges to sustainable agriculture, and the importance of revitalizing agriculture, including through the empowerment of small-scale farmers, were also highlighted. The statement was supported by the representatives of Ecuador, India, Indonesia and Venezuela (Bolivarian Republic of). The representative of Indonesia expressed support for a clear definition of peasants and other people working in rural areas, as well as for the inclusion of the obligations of States. The representative of India made reference to relevant national legislation protecting the rights of peasants.

19. The representative of South Africa, on behalf of the African Group, expressed support for a declaration, which was necessary to address normative gaps under international human rights law and address the historic and persistent discrimination endured by the groups concerned. The representative recalled the links between world food security and family, small-scale and traditional farming. The representatives of Egypt and Ethiopia associated themselves with the statement, with the representative of Egypt emphasizing that a special instrument was needed because peasants faced challenges such as the denial of their means of livelihood and of the ability to control their means of production and set market prices for their products.

20. The representative of the Dominican Republic, on behalf of the Community of Latin American and Caribbean States, expressed support for the elaboration of a declaration, and highlighted the centrality of policies that promoted the empowerment of women and gender equality, as well as community and family agriculture. The statement was supported by the representatives of Ecuador and Venezuela (Bolivarian Republic of). The representative of Ecuador highlighted the need to address gaps in standard setting, while the representative of the Bolivarian Republic of Venezuela mentioned relevant provisions in the constitution and legislative framework of that country that enshrined the right to the land, food sovereignty and promotion of sustainable agriculture.

21. The representative of the Netherlands, on behalf of the European Union, stated that the working group provided an opportunity to discuss how the existing international human rights framework could be used more effectively to improve the promotion and implementation of the rights of those living and working in rural areas. The European Union reserved its position on the entire text, as no new standards were needed. However, it was ready to continue its constructive engagement.

22. The representative of the United States maintained the previously stated reservations of that country regarding the draft declaration. While the United States took seriously many of the issues covered in the draft declaration, it believed that the Human Rights Council and subsidiary bodies were not the right forum to discuss many of those issues. The representative did not agree with the suggestion that some categories of individuals merited different treatment in the international human rights canon.

23. The representative of Switzerland noted that the major challenge was the implementation of existing human rights instruments but reaffirmed the support of Switzerland for a new declaration and also its openness to discussing the development of new rights, while respecting a consensus approach. The declaration should address the specific needs of women.

24. The representatives of Cuba, El Salvador and Panama expressed support for that initiative. The representative of Cuba insisted that the recognition of new rights for peasants was fundamental, as was giving more visibility and coherence to existing rights. The declaration could contribute to improving living conditions in rural areas in the long term and on a global scale.

25. The representative of China stated that the culture and development of rural areas were crucial for the development of humanity, as stressed by the Sustainable Development Goals. Countries had different conditions, considerations and agricultural policies. The relationship between the State and the market should be well managed by the State, which should promote coordinated development between urban and rural areas.

26. The representative of the Russian Federation expressed the support of that country for a gradual drafting process to achieve consensus, but expressed concern about the extension of the right of indigenous peoples to self-determination, including free, prior and informed consent, to peasants and other rural people.

27. The representative of Argentina highlighted the importance of advancing on a declaration and welcomed the inclusion of a gender perspective.

28. The representative of the Republic of Korea expressed the support of that country for the work of the working group, and expressed reservations on some rights that were in contradiction with its trade agreements.

29. The representative of the Plurinational State of Bolivia expressed the commitment of that country to the adoption of the declaration, which would fill gaps in international law, in particular in relation to the rights to seeds, land, information and cultural preservation. The representative emphasized that the contribution of peasants and other people working in rural areas to food security and food sovereignty was key to addressing the food crisis. The methods and systems of production developed by peasant communities played a central role in the conservation of biodiversity, and could become one of the principal solutions to climate change.

30. The representative of Pakistan expressed support for the right to seeds and recommended the inclusion of a reference to transfer of technology and technical cooperation in the field of agricultural research and development. The representative recommended stronger language on human rights in the context of business, the environment and the right to development.

31. Representatives of civil society welcomed the effort to use agreed language in the draft text and stated that the draft declaration covered most of their concerns (Centre Europe-tiers monde), in particular with regard to the following: (a) the rights to land, the collective use of land, seeds, protection from biopiracy, and use of their traditional knowledge (Landless Peoples' Movement and Serikat Petani Indonesia (members of LVC)); (b) the rights to the means of production and to a decent income (Mouvement

d'action paysanne (LVC member)); (c) the rights to permanent sovereignty over natural resources and to food sovereignty (World Forum of Fisher Peoples and International Federation of Rural Adult Catholic Movements); (d) the right to food and the obligation of the State to conduct land reform (FIAN Nepal); (e) the issue of forced evictions (Coordinadora Latinoamericana de Organizaciones del Campo (LVC member)); and (f) reference to the extraterritorial obligations of States (Comité français pour la solidarité internationale and Coordination Sud). Non-governmental organizations highlighted that peasants' rights issues cut across North and South (International Network of Human Rights) and that the declaration would not create new rights but rather ensure that the human rights framework adequately protected all people (Centro de Estudios Legales y Sociales).

V. Second reading of the draft declaration

32. The following account presents a summary of comments made on the text. Detailed proposals for the revision of the text are listed in annex III.

A. Articles 1 to 5

33. The representative of the European Union stated that the European Union wished to be provided with the normative sources of the text. The representative noted that the term "peasants" appeared inadequate and derogatory in English, and that "peasants" as a category were presented as a homogenous group, which raised the issue of how a consultation process could be managed.

34. The Secretariat reminded participants that the objective of the study by the Office of the United Nations High Commissioner for Human Rights would be to clarify the normative sources of the draft. The Chair agreed to circulate the draft with its footnotes.

35. The representative of Argentina made concrete proposals on articles 2 and 3, and requested clarification on the accountability mechanisms mentioned under article 2 (2).

36. The representative of FIAN International stressed the importance of extraterritorial obligations and the principle of free, prior and informed consent for peasants and rural communities.

37. The representative of Ecuador expressed support for the inclusion of extraterritorial obligations in article 2 and the inclusion of the right to food sovereignty in article 5, although more debate would be needed regarding natural resources.

38. The representative of the Russian Federation wished to see, in reference to article 5 (1), direct reference to existing State legislation. Regarding article 5 (6) (b), the proposed mechanism (free, prior and informed consent) was not clear and deletion would be preferred.

39. The representative of FAO recommended the inclusion of aquaculture in article 1 (2) and suggested wording for article 5 (1).

40. The representative of Egypt suggested amendments to articles 2, 3, 4 and 5. Regarding article 4, the representative could not accept the concept of gender identity. That view was supported by the representative of the Russian Federation. Regarding article 5, the constitution of Egypt gave sovereignty over natural resources to the people, not to a specific group.

41. The representative of the Programme on Women's Economic, Social and Cultural Rights, on behalf of South Asian Feminist Alliance for Economic, Social and Cultural

Rights, requested the inclusion of Dalits under article 1 (3) and the deletion of "that cannot be immediately guaranteed" in article 2 (1). The representative also suggested the addition of victims of natural disasters, earthquakes and fires in article 2 (3) and the inclusion of women's land rights in article 4 (1).

42. The representative of the European Union stated that article 2 (4) provided an example of how peasants were presented as a homogenous group with common interests, which was doubtful. Article 2 (6) raised the question of how States were supposed to regulate private individuals. The language of article 3 (4) on affirmative action was vague and possibly controversial. The representative made specific comments on a number of articles.

43. The representative of Argentina expressed support for the text of article 4 on gender equality. Regarding article 5 (1), the representative stated that it ran counter to the constitution of Argentina. The country reserved its position on the right to food sovereignty and requested the deletion of article 5 (6).

44. The representative of Serikat Petani Indonesia insisted that there should be more emphasis on the obligations of States. The obligation to provide assistance to those vulnerable to climate change and natural disasters needed to be reinforced. States should ensure capacity-building and support the advocacy of peasant organizations in the context of trade negotiations.

45. The representative of Brazil recommended the addition of "without disregarding specific legislation on indigenous peoples" in article 2 (4), "gender" in article 3 (3) and "when applicable" in article 5 (1).

46. The representative of China stated that article 2 should mention national legislation, and expressed agreement with the representative of Argentina on article 5 (6). The representative of China insisted that peasants' rights were individual and collective. Regarding sovereignty over natural resources, the representative emphasized the need to take national laws into consideration.

47. The representative of FIAN International clarified that accountability mechanisms were provided for in international covenants and regional organizations, and were mentioned in various general comments of the Committee on Economic, Social and Cultural Rights.

48. The representative of Cuba stated that Cuba was in favour of discussion leading to convergence on article 1. The representative highlighted the complex nature of article 5 and called for more discussion.

49. The representative of Egypt expressed the wish that the wording of article 3 (3) should be maintained. Alternatively, the word "sex" could be omitted and the word "gender" could be added.

50. The representative of the European Union requested clarification on the meaning and scope of article 5 (3) and 5 (4). The representative raised the issue of whether article 5 (6) would not be more realistic without the word "any" and raised the argument of peasants not being a homogenous group that could easily be consulted in relation to 5 (6) (b).

51. The representative of India called for adopting a holistic approach and requested clarification on accountability mechanisms. Regarding article 5, the representative questioned the added value of highlighting the obligations of States and indicated that the issue of sovereignty over natural resources should be approached with caution.

52. The representative of United Villages commented on article 2 (7) (c) and emphasized the need to put an end to speculation on foodstuffs.

53. The representative of Centre Europe-tiers monde said that the Centre endorsed the concept of extraterritorial obligations. In the context of globalization, there was a need for oversight of the activities of transnational corporations.

54. The representative of the International Indian Treaty Council expressed support for the text as it stood and called for more consistency when referring to persons, women and men. The representative did not agree with some statements by representatives of States on the lack of legal foundation for articles 1-5.

55. The representative of Serikat Petani Indonesia highlighted the importance of the right to food and related general comments.

56. The representative of the Plurinational State of Bolivia expressed support for the wording of article 1. Regarding article 5, the representative highlighted the importance of affirming the right to food sovereignty.

57. The representative of La Confédération paysanne (LVC member in France) requested that specific mention be made in article 1 of the special relationship that peasants had to the land, water and nature. That relationship was not purely economic but also social and cultural.

58. The representative of South Africa insisted on the importance of explaining what the term "peasant" entailed in a specific country or region. The representative expressed support for the need to ensure the accountability of transnational corporations in their operations, and for the principle of affirmative action in article 3 (4). The representative proposed the use of language from the International Convention on the Elimination of All Forms of Racial Discrimination. Article 5 should draw from articles 1 and 2 of the Declaration on the Right to Development. Regarding the proposal to elaborate "the right to food sovereignty", South Africa would welcome both more reflection on the internal dimension, which was elaborated in the current text, and the acknowledgement of an external dimension, namely the right of States to develop their agriculture, which was currently absent from the text.

59. The representative of the United States stated that article 1 needed clarification, considering that not all those engaged in the forms of labour described therein would define themselves as peasants. The representative made specific comments on article 2 and expressed disagreement with the notion of extraterritorial obligations. The representative raised the issue of how free, prior and informed consent could be applied to peasants and of how countries should implement article 2 (6). The representative requested clarification on the measures envisioned under 2 (7) (e), and suggested that the language on discrimination in article 3 should reflect the International Covenant on Civil and Political Rights and not refer to collective rights. The representative raised the issue of what affirmative action entailed in that context. Regarding article 4, the representative expressed satisfaction, especially about article 4 (3). The provisions in article 5 were similar to those in the United Nations Declaration on the Rights of Indigenous Peoples, but it was unclear how they could be implemented in the absence of a representative Government.

60. The representative of Ecuador recalled the spirit of the declaration and its non-binding character, and welcomed the inclusion of the principles of gender equality and non-discrimination in the text. The representative highlighted the importance of the rights to health, education and a clean environment, and recognized that more discussion would be needed on the rights to land, seeds, the means of production and biodiversity.

61. The representative of Indonesia stated that sovereignty was held by States and that article 5 should be reworded. Article 12 could be included in article 5.

B. Articles 6 to 12

62. Vandana Shiva (Navdanya network), in her video statement, welcomed the diversity captured in the definition of peasants. Ms. Shiva expressed support for the wording of the article on the right to seeds, which built on farmers' rights. She emphasized the right to land and land reform, and the right to self-determination.

63. Naela Gabr, Vice-Chair of the Committee on the Elimination of Discrimination against Women, welcomed the fact that most of the points contained in the Committee's general recommendation No. 34 had been addressed in the draft declaration, in particular the rights to land, water and seeds. Ms. Gabr regretted the omission of the negative impact of stereotypes on the image and role of people living and working in rural areas and the absence of any mention of human trafficking.

64. Ms. Gabr responded to questions from the floor on the reference, in general recommendation No. 34, to food sovereignty and the inclusion of the obligation of States to use and preserve seeds and prevent patenting, and on whether the right to breastfeed should be better addressed in the draft.

65. The representative of the Programme on Women's Economic, Social and Cultural Rights welcomed the recognition of women's unpaid work, and called on the working group to draw from the work of the Committee on the Elimination of Discrimination against Women on substantive equality.

66. The representative of the regional secretariat for West and Central Africa of LVC stated that food sovereignty was a crucial element for the region and expressed strong support for articles 5 and 6.

67. The representative of the Russian Federation requested the inclusion of a reference to national legislation in article 7 (4), and requested clarification of the reference to land and territory in article 7 (4) (b).

68. The representative of the World Alliance of Mobile Indigenous Peoples stressed the visionary nature of the declaration. Pastoralists moving from one country to another needed the right to nationality. The representative also stressed the importance of including the right to participate, the right to information, the right to legal support, and women's rights.

69. The representative of Egypt made specific comments on articles 6, 9, 10, 11 and 12. The representative requested the deletion of article 6 (2) (c), which contained a reference to informed consent and the choice of women in relation to their own bodies; the deletion of "regardless of the concept of the family" in article 6 (2) (l); and the deletion of "gender" and "gender identity" in article 6 (2) (m). Regarding articles 9, 10, 11 and 12, Egypt would like to see a reference to the necessity to respect applicable laws.

70. The representative of the European Union raised a question about whether the title referred to substantive rights, which needed clarification. The representative stated that article 6 was very long but useful, and that it was important to keep the reference to gender identity, although the European Union was uncertain whether it should be specific to rural women. The representative made detailed comments on a number of articles.

71. The representative of Argentina expressed satisfaction with how the text addressed women's rights and insisted on keeping the reference in article 6 to gender identity and various forms of families. Regarding article 7, the representative indicated a preference for the term "security of the person", rather than physical and personal security. Regarding article 8, the representative suggested maintaining only a reference to nationality and not to "legal existence", and requested clarification about the right of "combination" in article 11.

72. The representative of El Sindicato de Obreros del Campo de Andalucia (LVC member in Spain) stated that precariousness in the countryside was the result of an unfair distribution of resources and the inadequacy of the European Union Common Agricultural Policy. The representative expressed support for the declaration, which fully recognized the role of women and was based on article 14 of the Convention on the Elimination of All Forms of Discrimination against Women and general recommendation No. 34 of the Committee on the Elimination of Discrimination against Women.

73. The representative of the Bolivarian Republic of Venezuela expressed full support for the formulation of article 6 and expressed support for the suggestion by the representative of the Russian Federation about a reference to national legislation in article 7.

74. The representative of the United Kingdom expressed full support for all comments made on behalf of the European Union. Speaking in a national capacity, the representative reiterated the long-standing position of the United Kingdom that, with the exception of the right to self-determination, it did not accept the concept of collective human rights in international law. The representative expressed the view that universality was central, and that the rights of groups could not supersede the rights of individuals within the group.

75. The representative of the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Association suggested that article 7 could easily be expanded to include references to human trafficking. The representative expressed support for article 11, especially its paragraphs 1 and 3. In response to concerns about the text granting rights to specific groups, the representative stated that, in many countries, rural workers did not enjoy the same protection under labour laws as that enjoyed by other workers.

76. The representative of Ecuador stated, in connection with food sovereignty, that many countries had included that principle in national legislation and their constitutions. Regarding article 6, the representative did not see the need for a distinction between substantive rights and other rights. In response to the representative of the European Union, the representative of Ecuador stated that article 9 (1), on the right to choose the place of residence, took into account immigration laws. On the issue of collective rights, the representative added that some groups, such as human rights defenders, were looking for specific protection, which did not mean that human rights were not universal.

77. The representative of the United States, speaking on the issue of collective rights, suggested the inclusion of a paragraph stating that peasants, along with all human beings, were guaranteed all human rights. The representative requested clarification on article 7 (4) and in particular on the meaning and context of depriving peasants of their integrity, of forced sedentarization and of forced assimilation. Article 7 (4) (c) could run counter to freedom of expression. Article 9 raised the issue of agreed labour programmes between States. Article 10 raised the issue of whether peasants could only express their views in line with their traditions and culture. The representative stated that freedom of expression was not a collective right and that reference should be made to the International Covenant on Civil and Political Rights. Regarding article 11, more clarification was needed on the issue of participating in peaceful activities, the creation of cooperatives, and the type of support to be provided to peasant organizations. Regarding article 12, the representative stated that there was no right to participate, and demanded a reference to existing political rights.

78. The representative of Cuba acknowledged the right of association and expression in articles 10 and 11 but stressed that some constraints need to be taken into account in line with national laws.

79. The representative of the Zimbabwe Organic Smallholder Farmers Forum (LVC member) stressed the importance of rural women's rights.

80. The representative of the United Kingdom stated that there was a difference between taking measures to ensure the implementation of existing rights and the creation of new rights. The United Kingdom did not support the latter.

81. The representative of South Africa proposed changing the title of article 6 to "the rights of women working in rural areas" and suggested the inclusion of additional references to the Convention on the Elimination of All Forms of Discrimination against Women. The representative expressed support for the language that established access to land on an equal basis, and requested clarification on the scope of articles 6 to 12, which could cover not only those working but also those living in rural areas or rural dwellers.

82. The representative of FIAN Honduras stressed the importance of articles 6 to 12, considering the high levels of criminalization in the region.

83. Marc Edelman, speaking in his personal capacity, reiterated that the fact that peasants as a group were heterogeneous did not pre-empt them from finding commonalities. The common point among peasants was their reliance on land; therefore, the right to land was key. The derogatory connotation of the term "peasants" was indicative of the fact that this group had been oppressed. In his view, article 1 was therefore adequate.

84. The representative of China stated that, in mentioning substantive rights, the right to development, which covered peasants' individual and collective rights, needed to be added. In order to reach consensus, the use of unfamiliar concepts in article 6 (2) (l) and (m) should be avoided. In articles 9, 10, 11 and 12, language came from various instruments. There was a need to add "in line with applicable international and domestic laws". In article 10 and 11, rights and obligations should be balanced.

85. The representative of the World Forum of Fisher Peoples reminded participants of the criminalization of human rights defenders. The representative expressed full support for article 7 and, regarding article 9, stated that freedom of movement on rivers and seas was crucial.

86. The representative of India expressed support for the statement of the representative of China and stated that the text should consolidate all core human rights obligations and be streamlined. Regarding article 6 (2) (e) and (l), the international community had not arrived at a consensus. Fundamental rights, including association and expression, had correspondent duties, so the language should be balanced. Regarding article 11, there should be a reference to applicable laws.

87. The representative of the Plurinational State of Bolivia stated that collective rights were a way to strengthen the human rights system. Collective rights enabled the recognition of, and gave visibility to, certain groups that had suffered exclusion or were at a social, economic or political disadvantage. That approach had been adopted when granting collective rights to children, women, indigenous people, migrants, the elderly and Afro-descendants. Many countries had accepted collective rights, which represented an opportunity to make the human rights framework effective and not purely "rhetoric".

88. The representative of the Coordinadora Nacional de Oficiales en Retiro (LVC member in Nicaragua) expressed support for the wording of articles 6 to 12. Women needed to be able to make decisions regarding their own bodies, and needed access to information, credit and social security.

89. The representative of the Réseau des organisations paysannes et des producteurs agricoles de l'Afrique de l'Ouest insisted on the importance of allowing cross-border movements. The African Union had developed a policy framework for nomads and pastoralists.

90. The representative of the World Forum of Fisher Peoples (Spain) made comments regarding gender equality and expressed support for articles 6 to 12. The representative insisted on the importance, in article 8, of ensuring access to justice to avoid the abuse and killing of women.

91. The representative of the International Indian Treaty Council indicated that collective rights had originally been recognized to respond to claims from minority groups and ethnic minorities, and stated that the United Nations Declaration on the Rights of Indigenous Peoples had been widely accepted. The recognition of the collective rights of groups did not exclude individual rights. The Council had insisted on the recognition of food sovereignty as a prerequisite to the right to food, and on the article on freedom of movement. The declaration should not contain reference to national laws.

92. The representative of FIAN Nepal questioned the use of the term "persons" in article 8.

93. The representative of FIAN International clarified that the new rights under discussion were in fact implicitly part of existing rights. Making them explicit was key to responding to the new challenges of globalization, and in line with the evolutionary character of international law.

94. The representative of Réseau international des droits humains stated that the declaration should include a reference to the importance of community radios under article 10.

C. Articles 13 to 18

95. The representative of Mouvement d'action paysanne insisted on the importance of ensuring a decent income for peasants and expressed its support for article 13.

96. The representative of the Community Self-Reliance Centre (Nepal) stated that article 17 should include a reference to inclusive land reform.

97. The representative of the regional secretariat for Europe of LVC highlighted the importance of supporting the right to a decent income and proposed a number of amendments to reinforce the obligations of States under article 18.

98. The representative of the Programme on Women's Economic, Social and Cultural Rights made suggestions regarding the wording of articles 13 and 18.

99. The representative of Argentina suggested editing the last part of article 14 (1) to bring it into line with the International Covenant on Civil and Political Rights, replacing "in a manner that is consistent with human rights" with "when compatible with international human rights standards".

100. The representative of the European Union made a number of requests for clarification regarding, inter alia, articles 13 (2), 14 (3), 14 (4), 15 (2) and 16, as well as regarding article 18 (2), which seemed to ignore the reality of a free market economy.

101. The representative of Egypt called for the addition of a reference to conformity with public order and national legislation in articles 14 and 15, in particular with regard to customary forms of justice.

102. The representative of FAO suggested the inclusion of the right to access data and knowledge.

103. The representative of Sindicato de Obreros del Campo de Andalucía noted that many peasants' rights defenders had been charged with criminal acts and imprisoned, and had no access to legal recourse.

104. The representative of FIAN International insisted on the importance of access to justice. In response to comments regarding affirmative action, the representative stated that those measures were aimed at ensuring substantive equality as recognized by several national courts.

105. The representative of the United States asked for clarification on article 13 and on whether access to market information should be considered as a human right, as it could impinge on trade rules and corporate confidentiality. The representative expressed disagreement with article 13 (2)-(4), which listed new rights.

106. The representative of the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Association called for a reference to decent work under article 15, a reference to agroecology under article 16 or 20, and more detailed language on earnings and wages under article 18, in particular regarding wage-fixing mechanisms and collective bargaining in rural areas.

107. The representative of FIAN Belgium called for maintaining the content of article 17 and, in particular, the right to produce food in a sustainable way, and with dignity. The representative called for adopting a holistic approach to the right to food and nutrition, in the framework of food sovereignty.

108. The representative of Serikat Petani Indonesia insisted, regarding article 14, on the right to organize and form trade unions, and on the fact that States needed to respect the plurality of peasant organizations.

109. The representative of Coordinadora Latinoamericana de Organizaciones del Campo mentioned the framework law on the right to food, food security and food sovereignty adopted by the Latin American Parliament, as well as several useful FAO documents on food sovereignty. The right to food needed to include the right to produce food. The realization of individual rights depended on the collective dimension.

110. The representative of the Zimbabwe Organic Smallholder Farmers Forum appealed to African delegates to implement social safety nets, transition to agroecology and protect the right to land. Migrant workers needed to be ensured a living wage and protected by States.

D. Articles 19 to 24

111. Christophe Golay (Geneva Academy for Humanitarian Law and Human rights) reminded participants that the Human Rights Council had always considered it important to adopt a new instrument recognizing both existing and new rights to protect persons in particular situations of vulnerability. Mr. Golay noted the recognition of the right to seeds in the International Treaty on Plant Genetic Resources for Food and Agriculture, and highlighted a number of tensions between the rights of peasants to save, use, exchange and sell seeds and intellectual property rights, which needed to be debated. He stated that such rights most often protected business, which was outside of the human rights sphere. He suggested various ways of addressing that tension in the declaration and outside the human rights system.

112. Mr. Golay mentioned the importance of including extraterritorial obligations, and explained the distinction between individual rights to be exercised collectively and collective human rights, such as the right to self-determination or the proposed elements of article 19 on the right to land and natural resources relating to the commons. The representative of Centre Europe-tiers monde expressed disagreement with the proposals made for reconciling human rights and intellectual property rights and insisted that human rights must prevail.

113. The representative of Mozambique stressed the need to pay attention to rural women through special measures to ensure that they could own and inherit land and had access to bank loans.

114. The representative of the European Union made specific comments regarding, inter alia, articles 19 (1), 19 (6) and 24, and reiterated the position of the European Union against those rights as standalone rights.

115. The representative of the United States stated that the United States did not support article 19. Regarding article 20 (3), the right to be free from the adverse impacts of climate change was not recognized, and could be detrimental to ongoing climate negotiations. Regarding article 17, the representative stated that, although States might have obligations under instruments such as the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, the issue of the disposal of hazardous chemicals within a country was a matter of domestic law.

116. The representative of LVC reiterated the support of that organization for the draft and, in particular, for the inclusion of the rights to land, seeds, access to justice, means of production and biodiversity. Those rights were key in a context marked by land grabbing.

117. The representative of the Community Self-Reliance Centre requested the inclusion of a strong reference to comprehensive land reform under article 19, with specific mention of women's rights to land, and made specific suggestions regarding the obligations of States.

118. The representative of Switzerland stated the openness of that country to including new rights in the declaration and requested that comments made in previous sessions be taken into account in the revised draft.

119. The representative of Egypt expressed recognition of the importance of articles 19-24 but expressed the wish to see those rights drafted in a balanced manner so that States could have some margin when implementing them, in line with their national agricultural policies and legislation in force. The representative suggested alternative wording for articles 19, 20, 21, 23 and 24.

120. The representative of LVC stressed the need to develop global instruments protecting the rights to seeds, lands and biodiversity, and highlighted the importance of local seed banks.

121. The representative of the Russian Federation requested the addition of "not conflicting with national legislation" in article 19.

122. The representative of Ecuador stated that the human rights system needed further improvement and development, including through the recognition of new rights. The representative insisted on the importance of addressing the issue of hazardous materials in the declaration.

123. The representative of União Nacional de Camponeses (LVC member in Mozambique) reiterated support for the draft and in particular for the right to food sovereignty.

124. The representative of the Programme on Women's Economic, Social and Cultural Rights expressed support for the rights contained in articles 19-24 and for the collective dimension of those rights, and proposed the language of "collective rights individually recognized" in order to ensure that individuals and women in particular were granted fair and equal access to resources, the commons and biodiversity.

125. The representative of the Bolivarian Republic of Venezuela stated that articles 19-24 were fundamental to guarantee peasants' rights and expressed full support for the right to

land, including land reform. The country had recently adopted a seed law that protected peasants' rights. Food sovereignty found its basis in articles 19 and 22. The representative expressed no objection to the inclusion of references to national legislation, as proposed by the representative of the Russian Federation.

126. The representative of Argentina stated that there was no precedent in international instruments for the obligations of States referred to in article 19, and proposed deleting paragraphs 1, 2, 3 and 6. The representative made specific comments regarding article 19 (5). Argentina recognized article 24 as a right for individuals only within its own jurisdiction.

127. The representative of Comité français pour la solidarité internationale expressed support for the right to seeds and, in particular, article 22 (5) and its extraterritorial dimension.

128. The representative of the United States expressed support for the statement by the representative of Argentina on article 19.

129. The representative of South Africa reminded the working group of its mandate, which was to contribute to standard setting concerning the existing protection gap. Clarifying the issue of land as a human right was part of that exercise. The representative reiterated the commitment of South Africa to agrarian reform and expressed support for further discussion on the right to seeds.

130. The representative of the regional secretariat for West and Central Africa of LVC highlighted the importance of recognizing the right to seeds as stated in article 22. Seeds used by peasants were best adaptable to climate change but were threatened by trade agreements, transnational corporations and initiatives such as DivSeek.

131. The representative of FAO expressed support for the inclusion of the right to seeds and suggested a rewording of article 22, as well as the addition of three paragraphs regarding benefit-sharing, participatory plant-breeding and locally adaptable crops.

132. The representative of the Plurinational State of Bolivia expressed support for the inclusion of article 19 on the right to land, which was recognized in the constitution of that country. The representative also expressed support for article 22, made suggestions for improvements to articles 22 (2) and 23, and highlighted the importance of article 24.

133. The representative of China emphasized that, under its law, urban land belonged to the State, while rural land belonged to peasants as a collective. References to the right to land and the use of land should include the proviso that the right should be applicable according to national laws. The representative affirmed the support of China for the use and distribution of seeds by peasants and the developing and marketing of seeds. The right to seeds in the draft declaration should refer to the guiding role of the State in the development and use of seeds.

134. The representative of Serikat Petani Indonesia called for the inclusion of strong State obligations, including extraterritorial obligations, in article 22. On the issue of the reference to national legislation, the representative stressed the importance of the role of States, not private organizations, in setting standards.

135. The representative of the World Forum of Fisher Peoples expressed support for the wording of articles 19-24 and stressed their importance for small-scale fishers.

136. The representative of FIAN Honduras stressed the collective nature of land as a resource which should not be subject to the right to private property and stressed the importance of agrarian reform.

137. The representative of Serikat Petani Indonesia stated that the right to seeds and the right to biodiversity were of utmost importance and not negotiable.

138. The representative of the World Alliance of Mobile Indigenous Peoples called for more references to pastoral lands and corridors in article 19. The representative expressed strong support for the right to the means of production outlined in article 21; called for the inclusion of animal genetic resources, including animal breeds, based on the needs of local communities, under article 22; and stressed that article 24 was essential.

139. The representative of Sindicato de Obreros del Campo de Andalucía listed the relevant international instruments in relation to article 19. The representative of the regional secretariat for Central America of LVC insisted on the crucial character of articles 19-24 and the need to have access to an instrument that provided protection against evictions. The representative of the Österreichische Berg- und KleinbäuerInnen Vereinigung (LVC member in Austria) stated that the right to land was not a new right but rather a step to support peasants in regaining their collective rights, which they had lost in the course of the previous century, and emphasized the importance of encouraging young peasants, especially in the European context, and facilitating their access to land.

140. The representative of FIAN International recalled the consensus on the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, which were the basis of article 19. The Guidelines provided solid ground for the need for "preferential access", which was aimed at correcting the asymmetry in access to waters between small-scale fishers and agents of industrial fishing, tourism or other large-scale industrial sectors.

141. The representative of the International Federation of Rural Adult Catholic Movements expressed support for the declaration, in particular articles 19-24, as well as the concepts of food sovereignty and agroecology.

142. The representative of Coordinadora Latinoamericana de Organizaciones del Campo called on the working group to adopt a multicultural approach to human rights and stated that it should not be a matter of adapting the declaration to national legislation but rather of determining how States should adapt their legislation to the aspirations of the declaration.

143. The representative of Centre Europe-tiers monde listed the key components of the right to land, notably agrarian reform, security of occupation, and the social function of land, which should all figure in article 19. Those elements had already been recognized at the national and international levels.

E. Articles 25 to 30 and preamble

144. The representatives of FAO, the European Union and Indonesia suggested the inclusion of the 2030 Agenda for Sustainable Development in paragraph 2 of the preamble. The representative of FAO stated that paragraph 7 should include other small-scale communities and not only fishers.

145. The representatives of Bolivia (Plurinational State of), Ecuador and Venezuela (Bolivarian Republic of) expressed support for the inclusion of food sovereignty in the preamble.

146. The representative of Brazil proposed that preambular paragraph 1 should include gender and that paragraph 10 should add "and other activities related to their work".

147. The representative of Indonesia proposed amending article 27 and made suggestions regarding the preamble.

148. The representative of the European Union noted that articles 25-28 should be brought into conformity with the relevant articles of the International Covenant on Economic, Social and Cultural Rights, namely articles 9, 12 and 13. The representative of the European Union made additional comments on the preamble.

149. The representative of the Plurinational State of Bolivia expressed support for article 29, which provided for ways to address the denial of the cultural rights of rural communities.

150. The representative of Centre Europe-tiers monde expressed support for the recognition of a right to social security, which would provide concrete protection against climate and other disasters.

151. The representative of the World Forum of Fisher Peoples expressed support for the wording of articles 27, 28 and 29.

152. The representative of FAO suggested amending article 30 (1).

153. The representative of Egypt requested clarification on the relationship between food sovereignty and the development goals in the preamble and stated that Egypt was not in favour of expanding the scope to human rights defenders. The representative made comments on articles 26, 27 and 28.

154. The representative of LVC stated the support of that organization for the reference to food sovereignty in the declaration.

155. The representative of Ecuador expressed support for article 25 and 26.

156. The representative of China suggested the deletion of the reference to human rights defenders in the preamble, adding that paragraph 15 (freedom of association) should be deleted to avoid duplication, and paragraph 12 should include the right to development.

157. The representative of the Bolivarian Republic of Venezuela expressed support for the wording of the right to social security.

158. The representative of FAO recommended the inclusion of a dedicated article on rural youth that would be entitled "Rural youth's rights and the rejuvenation of the agricultural sector", ideally after article 6.

159. The representative of Argentina made comments on articles 25 (2), 25 (4) and 30, as well as several paragraphs of the preamble. Regarding preambular paragraph 16, which contained a reference to the right of indigenous peoples to self-determination in matters relating to their internal and local affairs, the representative requested the insertion of a paragraph inspired by article 46 (1) of the United Nations Declaration on the Rights of Indigenous Peoples.

160. The representative of the United States made specific comments on the preamble, notably with regard to tenure rights and food sovereignty.

161. The representative of the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Association said that States should take measures to include rural workers in social protection schemes and also drew attention to the appalling state of housing on many plantations.

VI. Conclusions and recommendations of the Chair-Rapporteur

A. Conclusions

162. **At the 8th and final meeting of its third session, on 20 May 2016, the open-ended intergovernmental working group on a draft United Nations declaration on the rights of peasants and other people working in rural areas adopted the following conclusions, in accordance with its mandate established by the Human Rights Council in resolution 30/13:**

(a) **The working group acknowledged the constructive dialogue, broad participation and active engagement of Governments, regional and political groups, civil society, experts, intergovernmental organizations and relevant stakeholders, and took note of the inputs received from them;**

(b) **The working group noted the shared concern about the human rights situation of, and the serious challenges faced by, peasants and other persons working in rural areas, especially of those in vulnerable situations, and the need to respect, promote, protect and fulfil their human rights;**

(c) **The working group encouraged States, civil society organizations and relevant stakeholders to send written contributions regarding their views, as presented during the third session, on the draft declaration before 3 June 2016.**

B. Recommendations of the Chair-Rapporteur

163. **Following the discussions held during the meetings of the working group, the Chair-Rapporteur recommended that:**

(a) **The Chair-Rapporteur continue to hold informal consultations with Governments, regional groups and relevant stakeholders, including academia, in the intersessional period;**

(b) **The Chair-Rapporteur prepare a revised text on the basis of the discussions held during the first, second and third sessions of the working group, as well as on the basis of informal consultations, and present that text during the fourth session of the working group for consideration and further discussion, in order to finalize the text of the declaration, according to the mandate of the working group;**

(c) **The working group elect a Vice-Chair-Rapporteur.**

VII. Adoption of the report

164. At its tenth meeting, on 20 May 2016, the working group adopted the draft report on its third session and decided to entrust the Chair with its finalization.

Annex I

Agenda

1. Opening of the meeting.
2. Election of the Chair-Rapporteur.
3. Adoption of the agenda and organization of work.
4. Programme of work.
5. Adoption of the report.

Annex II

List of invited speakers

Ms. Sue Longley: The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Association (IUF)

Ms. Sofia Monsalve: Food First Information and Action Network (FIAN) International

Ms. Elizabeth Mpofu: La Via Campesina

Ms. Sangeeta Shashikant: Third World Network

Ms. Naela Gabr: Vice-Chair of the Committee on the Elimination of Discrimination Against Women

Mr. Christophe Golay: Geneva Academy of International Humanitarian Law and Human Rights

Annex III

List of specific comments on the draft

Note: Text in bold indicates a proposal to add new text. Struck-through text indicates a proposal to delete text. Struck-through text immediately followed by text in bold indicates a proposal to replace the struck-through text with the bold text.

A. Articles 1 to 5

Argentina

Article 2

1. Los Estados respetarán, protegerán y harán efectivos los derechos de los campesinos y de otras personas que trabajan en las zonas rurales, **que se encuentren en su territorio y estén sujetos a su jurisdicción**, ~~tanto en su territorio como fuera de él.~~ Adoptarán las medidas legislativas, administrativas y de otro tipo que resulten apropiadas, **de conformidad con su ordenamiento jurídico interno**, para alcanzar progresivamente la plena realización de los elementos de los derechos de la presente declaración que no puedan garantizarse de forma inmediata.

2. Los Estados procederán a transformar los derechos reconocidos en la presente declaración en derechos protegidos jurídicamente y a asegurar su realización mediante mecanismos de rendición de cuentas.

~~3. Al aplicar la presente declaración, se prestará una atención particular a los derechos y las necesidades especiales de los campesinos y de otras personas que trabajan en las zonas rurales, en concreto las personas de edad, las mujeres, los jóvenes, los niños y las personas con discapacidad.~~

4. En la elaboración y aplicación de leyes y políticas, además de en otros procesos de toma de decisiones relativos a los derechos de los campesinos y de otras personas que trabajan en las zonas rurales, ~~como los acuerdos internacionales, los Estados obtendrán el consentimiento libre, previo e informado de los campesinos y de otras personas que trabajan en las zonas rurales, por conducto, por ejemplo, de las organizaciones que los representan.~~ **los Estados celebrarán consultas y cooperarán de buena fe con los campesinos y otras personas que trabajen en zonas rurales interesados por medio de sus instituciones representativas antes de adoptar y aplicar medidas legislativas o administrativas que los afecten.**

5. Los Estados elaborarán, interpretarán y aplicarán los acuerdos y las normas internacionales pertinentes en consonancia con sus obligaciones en materia de derechos humanos relativas, ~~por ejemplo, al comercio internacional, la inversión, las finanzas, la fiscalidad, la protección del medio ambiente, la cooperación para el desarrollo y la seguridad.~~

~~6. Los Estados adoptarán las medidas necesarias para garantizar que los agentes no estatales que los Estados están en condiciones de regular, por ejemplo personas y organizaciones privadas, empresas transnacionales y otras empresas, no impidan ni menoscaben el disfrute de los derechos de los campesinos y de otras personas que trabajan en las zonas rurales.~~

Article 3

4. Los Estados **se comprometen a adoptar, según corresponda,** ~~adoptarán~~ medidas de acción afirmativa para reducir o eliminar las condiciones que originan o facilitan que se perpetúe la discriminación contra los campesinos y las personas que trabajan en las zonas rurales.

Article 5

Derecho a la soberanía sobre los recursos naturales, al desarrollo y a la <u>seguridad</u> ~~soberanía~~ alimentaria

~~1. Los campesinos y otras personas que trabajan en las zonas rurales tienen derecho a la soberanía sobre los recursos naturales presentes en su comunidad. Tendrán la autoridad para administrar y controlar sus recursos naturales y disfrutar de los beneficios de su desarrollo y conservación. Tienen derecho a decidir si permiten el acceso a los recursos naturales de su comunidad y a obtener una participación justa y equitativa en los beneficios derivados de su utilización.~~

~~2. Los campesinos y otras personas que trabajan en las zonas rurales tienen derecho a participar en la toma de decisiones sobre cuestiones que afecten a sus derechos, directamente o por conducto de las organizaciones que los representan, de conformidad con sus propias leyes y prácticas consuetudinarias.~~

4. Los campesinos y otras personas que trabajan en las zonas rurales tienen derecho a la **seguridad** ~~soberanía~~ alimentaria. La soberanía alimentaria es el derecho de los pueblos a una alimentación saludable y culturalmente apropiada, producida mediante métodos socialmente justos que tengan en cuenta consideraciones ecológicas. Implica el derecho de los pueblos a participar en la toma de decisiones y a definir sus propios sistemas de alimentación y agricultura.

5. Los Estados, en asociación con los campesinos y otras personas que trabajan en las zonas rurales y sus organizaciones, y mediante la colaboración internacional, elaborarán políticas públicas para promover la **seguridad** ~~soberanía~~ alimentaria a nivel local, nacional, regional e internacional, así como mecanismos para garantizar la coherencia con otras políticas agrícolas, económicas, sociales, culturales y de desarrollo.

~~6. Los Estados adoptarán medidas para garantizar que se permita toda forma de explotación de los recursos naturales que los campesinos y otras personas que trabajan en las zonas rurales mantengan o empleen tradicionalmente, siempre y cuando:~~

~~a) Se haya llevado a cabo una evaluación del impacto social y ambiental por parte de entidades independientes y con la capacidad técnica debida, con la participación individual y colectiva de los campesinos y de otras personas que trabajan en las zonas rurales;~~

~~b) Se haya obtenido el consentimiento libre, previo e informado de los campesinos y de otras personas que trabajan en las zonas rurales;~~

~~c) Se hayan establecido, en condiciones mutuamente acordadas, las modalidades de participación en los beneficios de esa explotación entre quienes explotan esos recursos naturales y los campesinos y otras personas que trabajan en las zonas rurales.~~

Brazil

Article 2

4. **Without disregarding specific legislation on indigenous peoples, in** the development and implementation of legislation and policies and in other decision-making processes concerning the rights of peasants and other people working inrural areas, including international agreements, States shall obtain the free, prior and informed consent of peasants and other people working in rural areas, including throughtheir representative organizations.

Article 3

3. Peasants and other people working in rural areas have the right to be free from any kind of discrimination and any incitement to discrimination in the exercise of their rights, individually or collectively, in particular to be free from discrimination based on grounds such us race, colour, descent, sex, **gender,** language, marital status, property, disability, nationality, age, political or other opinion, religion or economic, social, cultural and birth status, among others.

Article 5

1. **When applicable, p**easants and other people working in rural areas have the right to sovereignty over the natural resources present in their communities. **In this case, t**hey shall the authority to manage and control their natural resources and to enjoy the benefits of their development and conservation**, and may** have the right to decide whether to grant access to the natural resources in their communities, and to obtain fair and equitable participation in benefits arising from their utilization.

Egypt

Article 2

1. States shall respect, protect and fulfil the rights of peasants and other people working in rural areas, both in their territory and extraterritorially. They shall **seek to** take legislative, administrative and other appropriate steps to achieve progressively the full realization of the elements of the rights of the present declaration that cannot be immediately guaranteed.

2. States shall **seek to** transform the rights recognized in the present declaration into ~~legal entitlements~~ **appropriate measures** and secure their realization through accountability mechanisms.

3. Particular attention ~~shall~~ **should** be paid in the implementation of the present declaration to the rights and special needs of peasants and other people working in rural areas, namely, older persons, women, youth, children and persons with disabilities.

4. In the development and implementation of legislation and policies and in other decision-making processes concerning the rights of peasants and other people working in rural areas, including international agreements, States shall **seek to** obtain the free, prior and informed consent of peasants and other people working in rural areas, including through their representative organizations.

Article 3

4. States shall take affirmative action ~~to diminish or~~ **with a view to** eliminate**ing** conditions that cause or help to perpetuate discrimination against peasants and people working in rural areas.

Article 4

3. States shall ensure that gender ~~identity~~ is not a barrier to realizing the human rights and fundamental freedoms set out in the present declaration and other international human rights instruments.

Article 5

1. Peasants and other people working in rural areas have the right to ~~sovereignty over~~ **access to** the natural resources present in their communities **in conformity with applicable legislations**. They ~~shall have the authority to manage and control~~ **may participate in managing and controlling** their natural resources and ~~to~~ enjoy**ing** the benefits of their development and conservation. They have the right to ~~decide whether to grant access to the natural resources in their communities, and to~~ obtain fair and equitable participation in benefits arising from their utilization **by them**.

2. Peasants and other people working in rural areas have the right to participate in decision-making in matters that would affect their rights, directly or through their representative organizations, in accordance with ~~their own customary laws and practices~~ **national laws in force**.

4. Peasants and other people working in rural areas have the right to ~~food sovereignty. Food sovereignty is the right of peoples to~~ healthy and culturally appropriate food produced by means of socially just and ecologically sensitive methods. It entails peoples' right to participate in decision-making and to define their own food and agriculture systems.

6. States shall take measures to ensure that any exploitation of the natural resources that peasants and other people working in rural areas traditionally hold or use is ~~permitted only on the condition that~~ **based on**:

(a) A social and environmental impact assessment ~~has been~~ **duly** conducted by independent and technically capable entities, with the individual and collective involvement of peasants and other people working in rural areas;

(b) **Constructive consultations aimed at obtaining t**The free, prior and informed consent of peasants and other people working in rural areas ~~has been obtained~~;

(c) The modalities for sharing the benefits of such exploitation between those exploiting the natural resources and the peasants and other people working in rural areas have been established on mutually agreed terms.

European Union

Article 1

Art 1.1. is there a reason why the term "anyone" is not used instead of "any woman or man". And what does this mean for the position of children, who seem to be excluded from the definition.

Art 1.2. now use of any person/unclear in relation to 1.1. This definition is actually very broad ("related occupation") and unclear.

Article 2

Art. 2.1. question on the term "extraterritorially" used here; what is meant exactly? Which rights have extraterritorial effect?

Art 2.2. given the broadness of the declaration but also the vagueness of a lot of the language, this could potentially be very far reaching.

Art 2.6. question on the "regulation of private individuals"

Art 2.7.a. needs a caveat "where applicable". Development cooperation can also be geared to rural populations, for instance.

Art 2.7.e. not completely sure what is meant here; clarification would be needed.

Article 3

Art 3.2. small rephrase to read "full enjoyment of all human rights". With this edit, this paragraph is actually broader than focusing only on dignity, equality and non-discrimination and comes close to the chapeau paragraph which we have suggested earlier, which could really help in streamlining and shortening the text.

Art 3.3. request to stop after "exercise of their rights".

Art 3.4. affirmative action as such is controversial, and the language in this paragraph is quite vague – what is expected from states exactly?

Article 4

Art 4. in general support for text as it stands. Art 4.3. could potentially be rephrased in a more positive manner.

Article 5

Art 5.1. some unclarity with this paragraph, and this is one which could be used as an example of our general comment on sources/referencing, to assess the text on the basis of its sources. It seems to not take into account the fact that some resources may very well be state assets, and we also believe that it somehow suggests that whoever grows certain foods should have control over the end user.

Art 5.3. request: "human rights, including the right to development". Although "developing" strategies also seems to imply the right to decide on human rights programming which is maybe not what drafters envisaged.

Art 5.4. clarification needed for healthy and culturally appropriate food – sources/references. Also reword into "it entails the right to".

Art 5.6. chapeau. "any" exploitation; the word "any" makes the whole para a bit unrealistic, suggest to leave it out.

5.6.a. is that truly a realistic notion, for "any" exploitation.

5.6.b. see recurring comment on "peasants" being presented as a homogenous block.

United States

Article 3

3. Peasants and other people working in rural areas have the right to be free from any kind of discrimination ~~**and any incitement to discrimination**~~ in the exercise of their rights, individually or collectively, in particular to be free from discrimination based on grounds

such as race, colour, descent, sex, language, marital status, property, disability, nationality, age, political or other opinion, religion or economic, social, cultural and birth status, among others.

Food and Agriculture Organization

Article 1

2. The present declaration applies to any person engaged in artisanal or small-scale agriculture, the raising of livestock, pastoralism, fishing, **aquaculture**, forestry, hunting or gathering, and handicrafts related to agriculture or a related occupation in a rural area.

Article 5

1. […] They shall **have** the authority to manage and control their natural resources and to enjoy the benefits of their ~~development and~~ conservation, **sustainable use and management.**

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Article 5

6. suggested the addition of:

(d) No involuntary displacement shall take place in the name of development or for the establishment of special economic zones and commercial agriculture.

La Via Campesina

Article 1

1. suggested the addition of:

(a) Il faut reconnaître la relation spéciale entre les paysans et la terre, l'eau (les aquifères), la nature et le territoire. Cette relation n'est pas seulement économique mais aussi culturelle et sociale : l'agriculture est un mode de vie ; la paysannerie qui est pratiquée l'est, en général, sur la base de la cellule familiale et les paysans sont traditionnellement en osmose avec leur environnement local.

(b) Il faut reconnaître le fait que les paysans ont le droit à exister en fonction de leurs propres modes de vie et que le but premier des paysans n'est pas de devenir riche et d'accumuler le capital mais bien de tirer un revenu décent de leur travail pour préserver leur mode de vie.

B. Articles 6 to 12

Egypt

Article 6

1. States shall take into account the particular problems faced by peasant women and other women working in rural areas and the significant role that they play in the economic survival of their families, communities, regions and nation States, including their work in the non-monetized sectors of the economy, and shall **seek to take** all appropriate measures to ensure the application of the provisions of the present declaration to women and girls.

~~(c) The rights to autonomy, privacy, confidentiality, informed consent and choice in relation to their own bodies in all spheres of life;~~

(l) The right to be treated on the basis of the principles of equality and justice in marriage and in family relations both in law and in private, ~~regardless of the concept of the family and~~ whatever the legal system, religion, custom or tradition within the country or region;

(m) The right to be free from multiple forms of discrimination, in recognition that gender compounds other forms of discrimination based on sex, ~~gender~~, ethnic origin, disability, degree of poverty, ~~gender identity~~, migrant status, marital or family status, literacy or other grounds.

Article 9

1. Peasants and other people working in rural areas have the right to freedom of movement and residence, **in accordance with laws in force,** within the borders of the States in which they are working, as well as the right to return to their country. They have the right to choose freely their place of residence, according to law, and to leave any country, including their own.

Article 10

1. Peasants and other people working in rural areas have the right to freedom of thought, conscience, religion, opinion, expression and peaceful assembly. They have the right to express their opinion, in accordance with traditions, ~~and~~ culture **and in conformity with law,** including through claims, petitions and mobilizations, at the local, regional, national and international levels.

3. Peasants and other people working in rural areas have the right, individually and collectively, to participate, **in accordance with law,** in peaceful activities against violations of human rights and fundamental freedoms. States shall take all necessary measures to ensure protection by the competent authorities of everyone, individually and in association with others, against any violence, threat, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present declaration.

Article 11

2. Peasants and other people working in rural areas have the right to form and join organizations, trade unions, cooperatives or any other organization or association of their own choosing, **in accordance with law,** for the protection of their interests. Their organizations shall be independent and voluntary in character, and remain free from all interference, coercion or repression.

4. States shall support, **as appropriate,** the establishment of cooperatives and other organizations of peasants and other people working in rural areas, and provide them with support to strengthen their position when negotiating contractual arrangements, in order to ensure that conditions and prices are fair and stable and do not violate their rights to dignity, a decent life and a sustainable livelihood.

Article 12

1. Peasants and other people working in rural areas have the right, **according to law,** to active, free, effective, meaningful and informed participation, directly and/or through their representative organizations, in the elaboration, implementation and assessment of policies, programmes and projects that may affect their lives, land and livelihoods.

3. States shall **seek to** ensure meaningful participation, directly and/or through their representative organizations, of peasants and other people working in rural areas in decision-making processes with regard to scientific research and innovation, including participation in problem identification, priority- and direction-setting, resource allocation, data identification, research, resource allocation, analysis and interpretation of findings.

4. Peasants and other people working in rural areas have the right to participate, **as appropriate**, directly and/or through their representative organizations, in the formulation of and in monitoring compliance with food safety, labour and environmental standards, whether by private or public actors.

5. Peasants and other people working in rural areas have the right to seek, receive, develop and impart information, **in conformity with law**.

6. States shall ensure, **as appropriate**, that peasants and other people working in rural areas have access to information relating to policies, programmes and projects that may affect them, in a language and form and through means that ensure the effective participation of peasants and other people working in rural areas.

European Union

Article 7

Art 7.1-3, this is example of selective quoting of the International Covenant on Civil and Political Rights; yes, these articles do apply to peasants but there is no need to repeat it, state it selectively, if it has been clearly stated in a chapeau text. If the text remains as it as, it sounds very odd in its current form and it should include wording to make clear that no one should be subject to these violations.

Art 7.4, unclear where this languages come from, does it have a place (a-e) under a chapeau on life, liberty, physical and personal security?

Article 9

Art 9.1, "choose freely place of residence" seems to ignore immigration laws.

Art 9.4, unclear where language comes from, for the moment ask for deletion of last sentence of the paragraph.

Article 10

Art 10.1, understand reference to tradition and culture but what if culture and tradition are themselves countering human rights (for example, when they propagate the exclusion of women in decision making processes?).

Art 10.2, suggest edit of para to remove "individually or collectively", same goes for 10.3; in this context inaccurate and would go beyond existing standards.

Article 11

Art 11, this article is a lot more prescriptive than needed and should be brought in line with article 22 of the International Covenant on Civil and Political Rights; or better still, as noted before, the Covenant should be referenced in chapeau in beginning.

Article 12

Art 12.1, clarify – is this about public or private sector?

Art 12.3. what about research and innovation not controlled by states?

Art 12.4. reference to private actors puts too high a burden on states; not all of the scope of this article is covered by state regulation.

FAO

Article 7 (new): Rural Youth's Rights and the Rejuvenation of the Agricultural Sector[a]

1. States shall take into account the particular problems faced by peasant youth and other youth working in rural areas and the significant roles which they play and will increasingly play in the future towards the sustainability of food systems and the economic survival of their families, communities, regions, and nation states, and shall take all appropriate measures to ensure the application of the provisions of the present Declaration to the youth.

2. In particular, States shall ensure to the youth the right:

a. to participate in the decision-making processes around, and the elaboration and implementation of development planning at all levels;

b. to access decent and productive employment and income-generating activities, both farm and non-farm, particular attention being given to the right to protection of health and safety at work, especially for youth in the age group 15-17 to protect them from falling into hazardous child labour;

c. to receive relevant types of training and education and mentorship services, formal and non-formal, including those relating to functional literacy, in order to increase their life skills, technical proficiency and entrepreneurial capacities;

d. to organise self-help groups and co-operatives and join existing cooperatives and organizations in order to obtain equal access to economic opportunities through wage employment or self-employment;

e. to access innovations and new technologies, combined with traditional knowledge, to attract and enable youth to be drivers of improvement in agriculture and food systems;

f. to participate in all community activities;

g. to have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in access to and resettlement schemes regarding land and other natural and productive resources.

[a] The article is inspired by the provisions of FAO and CFS instruments that recognize the crucial role of youth in ensuring food security for the present and the future. For example, the Principles for Responsible Investment in Agriculture and Food Systems, principle 4 "Engage and empower youth"

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Article 6

2. suggested adding:

- **States should address structural causes of poverty of rural women. States should demonstrate how their fiscal policies are pro rural women.**
- **States should recognize rural women as individual right holders and not just as members of households or dependents of male breadwinners. Rural women should receive entitlements as individuals.**
- **States should reduce and redistribute women's unpaid work. To reduce women's time burden, States should provide basic rights and services which include: housing, water, sanitation, education, health, fodder, institutionalized child care facilities, energy (including domestic energy for fuel and fodder) and better technology options.**
- **States should ensure better infrastructure support for rural women's needs to reduce the day-to-day drudgery of providing for themselves and their families. This should include access to markets (labour and goods), internal roads, and transport subsidies to support rural women's mobility.**
- **States should invest in awareness raising campaigns and promote equal sharing of care and unpaid work between men and women.**

C. Articles 13 to 18

Egypt

Article 14

1. Peasants and other people working in rural areas have the right to access to, and prompt decision through, just and fair procedures for the resolution of disputes. States shall allow for non-discriminatory access, through impartial and competent judicial and administrative bodies, to timely, affordable and effective means of resolving disputes, and should provide effective remedies, which may include a right of appeal, as appropriate. Such remedies should be enforced promptly and may include restitution, indemnity, compensation and reparation. States shall respect and promote customary approaches and other alternative dispute resolution mechanisms used by peasants and other people working in rural areas to resolve conflicts in a manner that is consistent with human rights, **and in conformity with laws in force.**

Article 15

2. States shall create an enabling environment with opportunities for work and that provides remuneration allowing for an adequate standard of living for peasants and other people working in rural areas and their families. In States facing high levels of rural poverty and in the absence of employment opportunities in other sectors, States shall establish and promote, **as appropriate,** food systems that are sufficiently labour-intensive to contribute to the creation of employment.

European Union

Article 13

Art 13.2. who would judge what is fair and impartial? How would this be done practically?

Article 14

Art 14.3. elements of this place peasants above, for example, impoverished urban population – in line with general/overarching comment made yesterday

Art 14.4. avoid perception that NHRIs should only be strengthened functioning in rural areas.

Article 15

Art 15.2. is this fair in relation to those not working in rural areas? What about those impoverished in large cities? Last sentence unclear and therefore problematic, so suggest redrafting or deletion.

Article 16

Art 16. please provide relevant ILO standards used for this paragraph so we can ensure anguage is in line.

Article 18

Art 18-2. paragraph seems to ignore the reality of a free market economy.

FAO

Article 13

1. could expressly include/emphasize **the rights to data, information and knowledge**

La Via Campesina

Article 18

Suggested adding:

- **Inclure l'obligation des États à réguler les marchés afin d'interdire l'abus de pouvoir, les positions dominantes, le dumping et les monopoles et de garantir des prix équitables et justes pour la production paysanne**
- **Ajouter les obligations des États à protéger, permettre et développer l'accès aux marchés, la commercialization, la vente directe, la production, l'échange et la production à petite échelle, à travers des normes, des critères et des instruments qui sont spécifiques et adéquats aux besoins des paysans**
- **Ajouter une référence sur le rôle des États dans l'achat et la vente de la production paysanne à des prix équitable**
- **Lorsque des subventions sont attribuées, inclure l'obligation des États à accorder la priorité aux paysans les plus modestes, ou qui habitent dans des zones plus difficiles, et en veillant que celles-ci ne nuisent pas aux producteurs d'autres pays quand les produits sont exportés**

- Inclure les obligations des États à garantir la stabilité de l'emploi et un revenu décent pour les travailleurs et les travailleurs migrants, dans le respect le plus strict des instruments nationaux et internationaux.

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Article 13

- Women should be provided full and safe access to public spaces or commons and markets.
- States should ensure equal access and participation in markets – both for labour and goods. Rural women should have opportunities to gain better skills and knowledge to participate in markets equally and for their upward mobility.
- States should monitor and regulate markets to ensure rural women receive fair prices for their products.
- Financial inclusion of rural women is very important: Concept of women-friendly bank with easy administrative processes and mobile banking available to women in remote areas.

Article 18

- States should recognize, promote and protect rural women's right to livelihoods including opportunities for employment (paid work).
- Rural women should have individual rights over productive resources (including natural resources) for sustainable livelihoods – irrespective of who they are and where they come from. States should ensure access, ownership, control and management including decision-making power of productive resources and its outputs. This includes land, water, forests, livestock, credit, energy, technology, knowledge, education, skills.
- Development agendas should recognize that rural women traditionally and historically have skills and knowledge for livelihoods that ensure food security for all.
- Ensure all benefits including agriculture subsidies are received by women equally.
- All State programmes and schemes that have provisions for livelihoods should engage rural women's collectives in this process. For example, the right to education in India provides free, compulsory primary education to all. Under this right India provides free school uniform and mid day meals to all kids. Making of these school uniforms and preparation of mid day meals should be given to rural women's collectives. This would promote rural women's livelihoods.
- Mobility is a challenge for rural women. For instance, unless there is a transportation subsidy, rural women cannot travel to access basic goods and services including education, health, employment, banking etc.
- Research in agriculture should be gender sensitive and based on women peasant needs.

- **States should prioritize rain-fed agriculture, where small and marginalized women farmers are involved. This will promote food crop, ensure food security and climate change mitigation and adoption.**

D. Articles 19 to 24

Argentina

Article 19

~~1. Los campesinos y otras personas que viven en zonas rurales tienen derecho, individual y colectivamente, a las tierras, las masas de agua, las aguas costeras, las pesquerías, los pastos y los bosques que necesitan para procurarse un nivel de vida adecuado, tener un lugar para vivir en seguridad, paz y dignidad y desarrollar sus culturas.~~

~~2. Los Estados eliminarán y prohibirán todas las formas de discriminación en relación con la tenencia de la tierra, incluidas las motivadas por un cambio de estado civil, por falta de capacidad jurídica o por falta de acceso a los recursos económicos. En particular, los Estados garantizarán la igualdad de derechos de tenencia para las mujeres y los hombres, incluido el derecho a heredar y a legar esos derechos.~~

~~3. Los Estados proporcionarán el reconocimiento jurídico de los derechos de tenencia de la tierra, incluidos los derechos consuetudinarios de tenencia de la tierra, que actualmente no están amparados por la ley. Todas las formas de tenencia, entre ellas el arrendamiento, deben proporcionar a las personas cierto grado de seguridad de la tenencia que les garantice protección jurídica frente a los desalojos forzosos. Los Estados reconocerán y protegerán el patrimonio natural y sus sistemas conexos de gestión y uso colectivo.~~

4. Los campesinos y otras personas que trabajan en las zonas rurales tienen derecho a recibir protección para evitar ser arbitrariamente desplazados de sus tierras y otros recursos naturales o de su lugar de residencia habitual. Los Estados incorporarán, en la legislación nacional, medidas de protección contra los desplazamientos que sean compatibles con las normas internacionales de derechos humanos y de derecho humanitario. Los Estados prohibirán los desalojos forzosos, la demolición de viviendas, la destrucción de zonas agrícolas y la confiscación o expropiación arbitraria de la tierra y otros recursos naturales como medida punitiva o como medio o método de guerra.

5. Los campesinos y otras personas que trabajan en las zonas rurales tienen derecho a regresar a la tierra y a que se les devuelva el acceso a los recursos naturales de que hayan sido privados arbitraria o ilegalmente o a recibir una indemnización justa y equitativa cuando no sea posible su regreso, **de conformidad con el sistema jurídico vigente de cada Estado soberano**. Los Estados ~~establecerán~~ **cooperarán y brindarán asistencia a los campesinos y otras personas que trabajan en las áreas rurales que hayan sido desplazados por desastres naturales y/o conflictos armados**, ~~el acceso a la tierra y a otros recursos naturales para quienes hayan sido desplazados a causa de desastres naturales o conflictos armados.~~

~~6. Los Estados concederán acceso preferencial a las pequeñas explotaciones pesqueras para que pesquen en aguas sujetas a su jurisdicción nacional. Llevarán a cabo reformas redistributivas por causas sociales, económicas y ambientales, a fin de facilitar un acceso amplio y equitativo a la tierra y otros recursos naturales, particularmente a los jóvenes, y un desarrollo rural inclusivo. Las reformas redistributivas deben garantizar el acceso a la tierra, las pesquerías y los bosques para hombres y mujeres, en condiciones de igualdad. Debería~~

~~darse prioridad a los campesinos y otros trabajadores rurales sin tierras en la asignación de tierras, pesquerías y bosques de titularidad pública.~~

7. Los Estados adoptarán medidas para la conservación y el uso sostenible a largo plazo de la tierra y otros recursos naturales, por ejemplo mediante la agroecología, y garantizarán las condiciones para que se regeneren las capacidades y los ciclos biológicos y otro tipo de capacidades y ciclos naturales.

Egypt

Article 19

1. Peasants and other people living in rural areas have the right, individually and collectively, to the lands, water bodies, coastal seas, fisheries, pastures and forests that they need in order to make from them an adequate standard of living, to have a place to live in security, peace and dignity and to develop their cultures.

3. States shall provide, **as appropriate,** legal recognition for land tenure rights, including customary land tenure rights, not currently protected by law. All forms of tenure, including tenancy, ~~must~~ **should** provide, **as appropriate**, all persons with a degree of tenure security that guarantees legal protection against forced evictions. States shall recognize and protect the natural commons and their related systems of collective use and management.

4. Peasants and other people working in rural areas have the right to be protected against arbitrary displacement from their land and other natural resources or place of habitual residence. States shall incorporate protections against displacement into domestic legislation that are consistent with international human rights and humanitarian law ~~standards~~ **rules**. States shall prohibit forced eviction, the demolition of houses, the destruction of agricultural areas and the arbitrary confiscation or expropriation of land and other natural resources as a punitive measure or as a means or method of war.

Article 20

1. Peasants and other people working in rural areas have the right to a safe **and** clean ~~and healthy~~ environment.

3. Peasants and other peoples working in rural areas have the right to be free from any adverse impact that climate change may have on their human rights. States shall comply with **their** international obligations to combat climate change.

4. Peasants and other people working in rural areas have the right to contribute, **as appropriate,** to the design and implementation of national and local climate change adaptation policies, including through the use of practices and traditional knowledge.

Article 21

3. States shall **seek to** provide technical assistance to peasants and other people working in rural areas in adjusting to climate change and other environmental strains and system shocks, for example by means of integrated resource management and agroecologically based extension and education programmes. States shall stimulate agroecological, organic and sustainable production whenever possible, in particular through support mechanisms, training programmes, special credit lines and mechanisms of commercialization.

4. States shall **seek to** ensure that their rural development, agricultural, environmental and trade and investment policies and programmes contribute effectively to strengthening local livelihood options and to the transition to environmentally sustainable modes of agricultural production.

Article 23

2. Peasants and other people working in rural areas have, individually or collectively, the right to conserve, maintain and develop agricultural biodiversity, and the right to associated knowledge, including in crops and animal races. This includes the right to save, exchange, sell or give away the seeds, plants and animal breeds that they develop. States ~~shall~~ **should** recognize the collective use of and right to agricultural biodiversity, and the right to associated knowledge established and managed by peasants and other people working in rural areas.

8. Peasants and others working in rural areas have the right to participate, **as appropriate,** in decision-making on matters related to the conservation and sustainable use of agricultural biodiversity.

Article 24

2. In order to realize the human right to water and sanitation of peasants and other people working in rural areas, States shall **seek to** guarantee at all times

European Union

Article 19

Art. 19.1. in line with comments made previously, we would ask for amending the text of 19.1 so that it would read peasants and other people have the right … to the lands etc

Art. 19.6. in line with our general comment made on Tuesday about our view that the declaration seemingly gives people working in rural areas rights beyond those enjoyed by others, which we would want to avoid. This paragraph seems to prioritise one group, namely small-scale fishers, over the economic benefits for all citizens.

Article 24

The content of this article in our view is part of an adequate standard of living as stipulated in art. 11 International Covenant on Economic, Social and Cultural Rights, and references should therefore be in line with that article.

Food and Agriculture Organization

Article 22

1. Peasants of all regions of the world, **particularly those in centers of origin and diversity,** have made, and will continue to make, enormous contributions to the conservation and development of plant genetic resources, which constitute the basis of food and agricultural production throughout the world.

3. Peasants and other people working in rural areas have **the** right to save, store, …

4. States should take measures to respect, protect and promote traditional knowledge, **innovations and practices**[5] relevant to plant genetic resources.

8. Peasants and other people working in rural areas have the right to equitably participate in sharing benefits arising from the utilization of plant genetic resources.[6]

9. States should take measures supporting the wider use of diversity of varieties and species in on-farm management, conservation and sustainable use of crops, and create strong links to participatory plant breeding to reduce the erosion of plant genetic resources and promote increased food production compatible with sustainable development.[7]

10. States should adopt measures expanding the use of local and locally adapted crops, varieties and underutilized species, with the participation of peasants and other people working in rural areas.

Centre Europe-tiers monde

Article 19

Suggested addition of new paragraph 6:

Peasants have the right to benefit from land reform and use unused land on which they depend for their livelihood. Latifundia must be forbidden. Land has to fulfill its social function. Land ceilings to landownership should be introduced whenever necessary in order to ensure equitable access to land.

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Article 19

- **States should undertake equitable distribution of land and water use to support livelihoods of women peasants and prevent dispossession of resources from peasants to corporations.**
- **Land and property should be either in the woman's name or under joint ownership. Single women including widows should have individual land ownership.**
- **States should develop gender sensitive land tenure context mapping at all levels.**
- **Women's group at community level should be provided with collective rights for previously unused or fallow lands.**
- **States should ensure equal and engaged participation of women in all decision making processes around issues connected to resources including land. Sates should remove barriers to ensure women's participation in all aspects of local governance and decision making.**

[5] Article 9.2a of the International Treaty on Pant Genetic Resources for Food and Agriculture, and Article 8j and 10 of the Convention on Biological Diversity.

[6] Article 9.2b of the International Treaty on Plant Genetic Resources for Food and Agriculture, and Article 5.2 of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity.

[7] Article 6.1 of the International Treaty on Plant Genetic Resources for Food and Agriculture.

- **States should ensure independent inclusive joint monitoring committee for the security of rights of peasant and women farmers.**

E. Articles 25 to 30 and preamble

Argentina

Article 25

2. Con miras a lograr progresivamente la plena realización del derecho a la seguridad social, los Estados deberían, con arreglo a las circunstancias nacionales, **y sus respectivos ordenamientos jurídicos internos,** establecer lo antes posible o mantener unos niveles mínimos de protección social que incluyeran garantías básicas de seguridad social. Esas garantías deberían asegurar, como mínimo, que todas las personas necesitadas tuvieran, a lo largo de su vida, acceso a la atención de salud esencial y a prestaciones básicas para asegurar los ingresos, que conjuntamente les garantizaran un acceso efectivo a los bienes y servicios definidos como necesarios a nivel nacional.

Preamble

El Consejo de Derechos Humanos,

Afirmando que los campesinos y otras personas que trabajan en las zonas rurales son iguales a las demás personas y que en el ejercicio de sus derechos deberían estar libres de cualquier forma de discriminación, ~~en particular la discriminación por motivos de raza, color, sexo, idioma, religión, opinión política o de cualquier otra índole, origen nacional o social, bienes, riqueza, nacimiento o cualquier otra condición~~,

Reconociendo las contribuciones pasadas, presentes y futuras de los campesinos y de otras personas que trabajan en las zonas rurales en todas las regiones del mundo para conservar y mejorar la biodiversidad y garantizar lasoberanía alimentaria **seguridad alimentaria**, que son fundamentales para lograr los objetivos de desarrollo convenidos internacionalmente,

Convencido de que los campesinos y otras personas que trabajan en las zonas rurales deben disponer de medios para promover y emplear prácticas de producción agrícola ambientalmente sostenibles que beneficien a la Madre Tierra y estén en armonía con ella, como la capacidad biológica y natural de los ecosistemas para adaptarse y regenerarse mediante procesos y ciclos naturales,

Preocupado porque los campesinos y otras personas que trabajan en las zonas rurales sufren, ~~de manera desproporcionada,~~ pobreza y malnutrición, así como las cargas causadas por la degradación del medio ambiente y el cambio climático, y porque un número cada vez mayor de campesinos y otras personas que trabajan en las zonas rurales son desalojados o desplazados por la fuerza todos los años para dar cabida a proyectos de desarrollo a gran escala,

Destacando que las campesinas y otras mujeres rurales asumen un porcentaje desproporcionado del trabajo no remunerado y a menudo no tienen un acceso equitativo a Naciones Unidas la tierra, los recursos productivos, los servicios financieros, la información, el empleo o la protección social,

Profundamente preocupado por la proliferación de la violencia contra las mujeres y las niñas rurales, en todas sus formas y manifestaciones, a escala mundial,

Destacando que hay varios factores que dificultan que los pequeños pesadores y trabajadores de la pesca puedan hacerse oír, defender sus derechos humanos y sus derechos de tenencia, y garantizar el uso sostenible de los recursos pesqueros de los que dependen,

Reconociendo que el acceso a la tierra, al agua, a las semillas y a otros recursos naturales es cada vez más difícil para los habitantes de las zonas rurales y destacando la importancia de mejorar el acceso a los recursos productivos y a la inversión en un desarrollo rural adecuado, que incluya enfoques agroecológicos,

Teniendo en cuenta las condiciones peligrosas y de explotación en las que trabajan quienes se dedican a la agricultura, la pesca y otras actividades, que a menudo carecen de salarios mínimos vitales y de protección social,

Profundamente preocupado porque los defensores de los derechos humanos que se ocupan de cuestiones relacionadas con la tierra y los recursos naturales corren un riesgo elevado de ser víctimas de intimidación y de que se atente contra su integridad física de múltiples formas, ~~como mediante de asesinato, asesinatos, atentados, agresiones y malos tratos, criminalización y uso excesivo de la fuerza por parte de la policía y otras entidades, de carácter privado, durante manifestaciones,~~

Observando que los campesinos y otras personas que trabajan en las zonas rurales a menudo tienen dificultades para acceder a los tribunales, los agentes de policía, los fiscales y los abogados, hasta el punto de que no pueden obtener reparación ni protección inmediatas en caso de violencia, abuso y explotación,

Reconociendo que la Declaración Universal de Derechos Humanos, el Pacto Internacional de Derechos Económicos, Sociales y Culturales, el Pacto Internacional de Derechos Civiles y Políticos, la Convención sobre la Eliminación de Todas las Formas de Discriminación contra la Mujer, la Convención Internacional sobre la Eliminación de Todas las Formas de Discriminación Racial, la Convención Internacional sobre la Protección de los Derechos de Todos los Trabajadores Migratorios y de sus Familiares y la Declaración y Programa de Acción de Viena afirman la universalidad, indivisibilidad e interdependencia de todos los derechos humanos, civiles, culturales, económicos, políticos y sociales,

Recordando que, a fin de abordar las deficiencias de protección laboral y la falta de empleos dignos a los que se enfrentan los campesinos y otras personas que trabajan en las zonas rurales, la Organización Internacional del Trabajo ha elaborado un amplio conjunto de convenios y recomendaciones, y que esas normas representan los mínimos derechos que les corresponden,

Reconociendo que, para garantizar la **seguridad** ~~soberanía~~alimentaria de los pueblos, es esencial que se respeten, se protejan y se promuevan los derechos reconocidos en la presente declaración,

Afirmando que la libertad de asociación es un derecho habilitante clave para que los campesinos y otras personas que trabajan en las zonas rurales puedan unirse para tener acceso a los derechos que figuran en la presente declaración y ejercerlos libremente,

Afirmando también que, de conformidad con la Declaración de las Naciones Unidas sobre los Derechos de los Pueblos Indígenas, estos últimos, entre ellos los campesinos indígenas y otras personas indígenas que trabajan en las zonas rurales, tienen derecho a la libre determinación en lo relativo a sus asuntos internos y locales, **subrayando que nada de lo contenido en esta Declaración se entenderá en el sentido de que autoriza o fomenta acción alguna encaminada a quebrantar o menoscabar, total o parcialmente, la**

integridad territorial, o la unidad política, la soberanía y la independencia de los Estados, ni otros principios contenidos en la Carta de las Naciones Unidas.

Recordando las conclusiones de la Conferencia Mundial sobre Reforma Agraria y Desarrollo Rural y la Carta del Campesino aprobada en ella, donde se destacaba la necesidad de formular estrategias nacionales apropiadas para la reforma agraria y el desarrollo rural y de integrarlas en las estrategias nacionales generales de desarrollo,

Convencido de la necesidad de que se amplíe la protección de los derechos humanos de los campesinos y otras personas que trabajan en las zonas ~~rurales y de que se interpreten y se apliquen de forma coherente las normas y los principios internacionales de derechos humanos relativos a esta cuestión~~ **y los estándares del derecho internacional de los derechos humanos existentes en la materia**,

Subrayando que corresponde a las Naciones Unidas desempeñar un papel importante y continuo de promoción y protección de los derechos de los campesinos y de otras personas que trabajan en las zonas rurales,

Aprueba solemnemente la siguiente declaración sobre los derechos de los campesinos y de otras personas que trabajan en las zonas rurales:

Egypt

Article 26

4. In order to realize the right to health of peasants and other people working in rural areas, States shall guarantee at all times the following minimum conditions:

(a) Access to health facilities, goods and services on a non-discriminatory basis, in particular for ~~vulnerable or marginalized~~ groups **in vulnerable situations**;

Article 27

5. In order to realize the right to housing of peasants and other people working in rural areas, States shall **seek to** guarantee ~~at all times~~ the following minimum conditions:

Article 28

1. Peasants and other people working in rural areas have the right to education and training. Education and training programmes for peasants and other people working in rural areas ~~shall~~ **should** be based on their economic environment, social and cultural conditions and practical needs, and incorporate their histories, knowledge and value systems. They shall be developed and implemented in cooperation with peasants and other people working in rural areas.

European Union

Preamble

PP4 – is there evidence to support the claim that there is greater poverty and malnutrition in rural areas than urban areas?

PP6 – we appreciate the attention of this specific paragraph to violence against women and girls. However, because this is a broader issue and not only pertains to rural women and girls, we think the paragraph would benefit from expressing a general concern about all violence against women and girls before including a specific reference to rural women.

PP8 – ask clarification on "agroecological approaches", with the source where this is taken from.

PP10 – we appreciate the spirit of this paragraph. Much in line with the comment made about PP6: the issue is wider than specifically the risks for human rights defenders working on land and natural resources issues. We would therefore prefer if the para could begin with a general reference on the risks for human rights defenders in general before paying specific attention to HR defenders working on land and natural resources issues.

PP15 – is an example of the comment we made earlier in the general statement on singling out selective parts of the covenants: freedom of association applies to peasants, but so does the whole International Covenant on Civil and Political Rights and so do the other instruments. Would it not make a lot more sense to state clearly that that is the case and then focus specifically on those elements where more work on implementation is needed?

PP20 – obviously not in the position to agree on this PP yet.

Indonesia

Article 30

Paragraphs 2 and 3 of article 27 of the declaration should be merged as paragraph 2 cannot stand alone and paragraph 3 includes qualifications. The first sentence of the merged paragraphs would read "Peasants and other people working in rural areas have the right to be protected against unlawful eviction from their home as well as against harassment and other threats".

Paragraph 2 of Article 27 should begin with the addition of: **"Peasants and other people working in rural areas have the right to be protected against unlawful eviction from home and as well as against harassment and other threats."**

Preamble

PP10. Include a reference to the Declaration on the Right to Development

PP16. Include at the end **"with respect to the territorial integrity of state".**

United States

PP2 & PP14. Please replace the term "food sovereignty" with "food security" PP3 – Please provide clarification on the phrase "should be provided with the means…" PP7 – What is meant by the term "tenure rights" in the context of an international document?

PP13. This implies that treaties to which many countries are not party represent the minimum rights under international law. Only if a principle has attained the status of customary international law (principle against torture) or is jus cogens (like genocide or war crimes) can it bind states legally – if a state is not a party to a treaty that so provides.

FAO

Article 30

1. The specialized agencies, funds and programmes of the United Nations system, and other intergovernmental organizations shall contribute to the full realization of the provisions of the present declaration, including through the mobilization, ~~inter alia~~, of development assistance and cooperation, **strengthening collaboration on reporting on**

relevant SDGs indicators, supporting countries to develop the capacity of statistical systems, and ensuring meaningful disaggregation of data.

Preamble

PP2. *Recognizing* the past, present and future contributions of peasants and other people working in rural areas in all regions of the world to conserving, **managing,** ~~improving~~ **sustainably using** biodiversity and to ensuring food sovereignty, which are fundamental to attaining internationally agreed development goals.

PP7. *Stressing* that several factors make it difficult for **artisanal and small-scale farmers, pastoralists, foresters,** fishers and fish workers to make their voices heard, defend their human rights and tenure rights, and secure the sustainable use **and management** of the ~~fishery~~ **natural** resources on which they depend.

FAO suggested adding new paragraph after list of ILO instruments:

Recalling also **that the tenure rights, access to natural resources and a number of other rights of peasants are protected by the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security,[c] the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication,[f] the International Treaty on Plant Genetic Resources for Food and Agriculture,[g] the Principles for Responsible Investment in Agriculture and Food Systems,[h] and the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security,**

FAO suggested adding new paragraph after paragraph on labour protection gaps:

Deeply concerned **about farmers ageing around the world and youth increasingly turning their backs on agriculture due to lack of incentives and drudgery of rural life, and *recognizing* the need to improve the economic diversification of rural areas and the creation of non-farm opportunities, especially for the rural youth,**

Programme on Women's Economic, Social and Cultural Rights, South Asian Feminist Alliance for Economic, Social and Cultural Rights and Community Self-Reliance Centre

Article 25

- **States should provide comprehensive universal social security to all women. Rural women are mainly in subsistence forms of livelihoods and don't have income and cannot contribute towards social security. Therefore basic social security should be provided as non-contributory form.**
- **Social security benefits should be received by rural women as individual rights holders and not just as a member of a family, household or group. Their marital status should not have an impact on their entitlements.**

[c] Committee on World Food Security (CFS), 2012

[f] FAO Committee on Fisheries (COFI), 2014

[g] Adopted by FAO Conference on 3 November 2001 and entered into force on 29 June 2004

[h] CFS, 2014

[i] FAO Council, 2004

- **Social security should be universal, but not uniform, ensuring specific and multiple vulnerabilities; and special temporary measures for socially and economically excluded groups including single women, female-headed households, migrants and migrant workers; Dalit, tribal; sexual and gender minorities; women with occupational stigma and women in conflict areas.**
- **States should frame the reproductive and care role that women have as work. If a woman cannot do that work (because she is ill, disabled, etc.), she should get unemployment benefits.**
- **Poor rural women do not have documents that are generally required to apply for state benefits. Therefore, social security schemes should not require bureaucratic administrative processes that alienate women. Instead, they should strive to be women- friendly in design. Many poor rural women are illiterate and therefore information about various schemes and benefits should be given a clear, simple, women-friendly way.**

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General Assembly

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Human Rights Council
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Agenda item 5
Human rights bodies and mechanisms

Open-ended intergovernmental working group on a draft United Nations declaration on the right to peace

Note by the Secretariat

1. In its resolution 20/15 of 5 July 2012, the Human Rights Council decided to establish an open-ended intergovernmental working group with the mandate of progressively negotiating a draft United Nations declaration on the right to peace. The working group held its first session from 18 to 21 February 2013.

2. In its resolutions 23/16 of 13 June 2013 and 27/17 of 25 September 2014, the Human Rights Council decided that the open-ended intergovernmental working group should hold its second session in 2014 and its third session in 2015. Accordingly, the second session was held from 30 June to 4 July 2014 and the third session was held from 20 to 24 April 2015, with the objective of finalizing the text of the declaration.

3. On 1 October 2015, the Human Rights Council adopted resolution 30/12, by which it decided that the working group should hold its fourth session, again with the objective of finalizing the declaration.

4. In its resolution 32/28 of 1 July 2016, the Human Rights Council adopted the Declaration on the Right to Peace and recommended that the General Assembly adopt the Declaration in accordance with paragraph 5 (c) of its resolution 60/251 of 15 March 2006.

5. Consequently, the fourth session of the open-ended intergovernmental working group has been cancelled and no further sessions are foreseen.

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